NORTH AMERICAN REVIEW.

No. LXIX.

OCTOBER, 1830.

ART. I.—*The American Annual Register for the Years 1827–8–9, or the Fifty-second and Fifty-third Years of American Independence.* New York. E. & G. W. Blunt. 1830.

We have, on former occasions, recommended the two first volumes of the American Annual Register, in terms decisive of our opinion of the plan and execution of the work. In its plan, we scarce know a work capable of being rendered more valuable, in the whole class of literature to which it belongs. The reader has only to consider how important a series of volumes an American Annual Register would be, commencing with the settlement of the country, or even with the revolution, in order to form an opinion of the claims of this publication to general patronage. For want of a contemporary record, like that which is furnished by these volumes, not a little of our history is irretrievably lost. The materials for it, if they exist at all, are dispersed throughout newspapers, magazines, and congressional documents, which it is in vain, after the lapse of a few years, to attempt to collect. A single volume, like one of those before us, relating to any period now considerably remote, would contain probably more information than the antiquary would be able to collect by years of study. It is not extravagant to anticipate, that, from the time when the publication of the English Annual Register commenced, the history of modern Europe will be written with much greater facility, as well as in much wider comprehension, than before. And what that work has accomplished for British history in particular, and the history of all other countries as far as they are in-

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cluded in its plan, will of course be accomplished for American history, by a work, which shall appropriately sustain the character of an American Annual Register.

But it is not enough to say, that these works will be useful to posterity. It can hardly be expected of any generation to support expensive works solely for the benefit of their successors. We remark, therefore, farther, that publications of this class, judiciously executed, are of great immediate utility. Their object is, at the end of a year, to present the public with the substance of the year's events. It is possible, indeed, in reference to occurrences of great interest, that the reading of the newspapers from day to day will leave upon the mind, at the end of the year, a distinct and accurate impression of what has happened. Of such events as Napoleon's invasion of Russia, and perhaps the emancipation of the Catholics, or the election of General Jackson, and of the main incidents connected with these events, the knowledge derived from the daily journals is as clear and correct as is required. Great single incidents of course attract the notice and dwell on the memory. But let any person, even the most assiduous reader of newspapers, endeavor, at the end of the year, to go over, in his own mind, the political history of Great Britain, or of France, of Columbia, or of Mexico, or even of the United States, and he will find how general and vague his recollection is. He will find himself alternately embarrassed by the redundancy and the want of facts. Many things, recorded at the time as 'important news,' are of no permanent interest; and many things, that are of considerable consequence, escape even a vigilant attention. To give a summary then of the political history of the year, in which what is merely superfluous detail shall be omitted, and the main events shall be continuously narrated, is the duty of the Annual Register; and a duty, which cannot be discharged without essential benefit to the politician and general reader.

We have already expressed a favorable opinion of the manner in which the former volumes of the American Annual Register have been executed. The present volume we consider quite equal to either of the others. In ordinary circumstances, particularly in the case of a periodical work, we might not deem it strictly proper, to make the successive volumes of a series the subject of our remarks. Supposing, however, the American Annual Register not yet to have reached a

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circulation, to make it wholly independent of the usual means of recommending new works to the notice of the public, and considering it highly important that this work should be liberally sustained, we have felt it a duty to call the attention of our readers to its merits.

This volume comprehends the political history of two years, and is to be followed by an additional volume, containing the public documents, law proceedings, and biographies for the same period. This departure from the strictness of the plan of an Annual Register is stated by the conductor, to have been caused partly by private considerations, although regarded by him as justified by the peculiar character of the events, which transpired during the two years embraced in the volume. We are not at all disposed to question the weight of the private considerations alluded to, nor to murmur at the delay. Neither do we deny that the history of 1828 and 1829, both domestic and foreign, may, in its leading events, be very conveniently written at once. We also look forward with interest to the supplementary volume, which is promised us in the course of the present season. We are, however, of the opinion, that on the punctual appearance of a volume each year, containing, in due proportion, all the matter pertaining to that year, the success of this work will mainly depend. Without this, the publication may be valuable, but it will not be an Annual Register. It will be a departure from that plan, which experience has shown to be admirably adapted to the end proposed; and which probably possesses advantages over any other, which, being in substance the same, should in form be considerably different. We forbear to enlarge on the topic, although we deem it one, in which the prosperity of the work is involved, because it could not be pursued without apparent disparagement of the present volume and of that which is expected to complete the two years.

Of the historical portion of this volume, about twice as much is devoted to Europe and the States of this Continent south of our Union, as is devoted to the United States. We are not disposed to apportion numerically the number of pages, to which the domestic and foreign history of the year are severally entitled. Circumstances will of course, at different times, suggest greater fullness in the different chapters of each. We are inclined to think it desirable, however, that the portion devoted to the United States of America should be at least as

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ample as all the rest put together. The work is unquestionably looked to as an *American* Annual Register. The foreign portion of this work has been hitherto, and is, in the present volume, exceedingly well executed; a good deal better than the corresponding—that is, the foreign part of the English Annual Register. Still, however, the last named work, the French *Annuaire*, and other European publications may be depended on to furnish a satisfactory account of foreign history and politics. But none of them can for us, in any degree, supply the place of an *American* Annual Register, in the account of our own politics. More than once the English Annual Register, under the head of the History of the United States, has done nothing but gather up the libellous trash of our own daily partisan prints, embodied into a form fit, and, it would seem, designed for no higher purpose, than to be quoted back into our papers as the judgment of foreigners in respect to our domestic politics. Besides this, it is notorious, that foreigners cannot or will not comprehend America. We want, therefore, both for the instruction of Europe and for reference at home, a full and comprehensive history of our own political year. This part of the work will of course be the most attractive to the foreign reader; and though, on the first impression, the contrary may be supposed, it will be the most interesting even in the United States. A far larger portion of readers will be gratified and instructed by a well-digested and ample narrative of our own affairs, than by the most finished chapter on England, France, or Russia. It must not be supposed, that what is familiar to the conductor of the work, whose attention is systematically turned to the collection of its materials, will, therefore, be trite to the mass of the community. A good portion of its contents will be positively new to them; and what was known before will serve to give additional interest to the narrative. Nothing pleases most readers more than a full and connected account of an interesting subject, with which they have already a partial acquaintance. The actors in our domestic annals are all of them men well known in some part of the country—some of them well known in every part. The transactions, in which they are concerned, relating to our common country and to passing interests, will be read by many, who would grow weary over the bulletins of a campaign in distant regions, filled with the exploits of men they never heard of before. We wish also as much extension as

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possible given to the chapters on the separate States. There is generally in each of the States some important or curious legislation, and some contribution toward the permanent and essential history of the country. This part of the work, we are fully aware, will be the most difficult to prepare. There is no convenient official source, like the journals of Congress, from which it can be derived. It must be sought in newspapers, and not in a small number of them. We believe, however, that the pains and diligence, bestowed on this part of the work, would be amply rewarded in its increased value. Some States might be dismissed more readily than others; and the State, which presented very important matter one year, might be summarily despatched the next. But the chapters devoted to them, if carefully elaborated, would be those perused with most interest by the mass of the readers of the work. Considerable care must be used in assigning to different States their relative portion of the pages of the work, according to the interest likely to be felt throughout the country, in the various topics treated under each head. Thus an abstract of the Revised Code of New York occupies seventy pages of the present volume, and the proceedings of South Carolina on the subject of Nullification, are comprehended in two pages. This perhaps is about the due share of each, in a philosophic aspect of the importance of the respective topics. But in an Annual Register of the politics and history of the country, something might have been retrenched from one article and added to the other. We refer to these instances, however, rather in the way of illustration, to explain our meaning, than of fault-finding. The chapters on American history contain the principal incidents in the legislation of the twentieth Congress, and the chief occurrences in the two last years of the late administration. They are related with as much moderation as can be brought to such topics by any person entertaining opinions of his own. There is no partisan violence in relating events and characterising measures, in which the author must have felt deeply, and in which he knew the public felt as deeply as himself. This moderation of tone belongs to the dignity of historical narrative, and in adopting it, the conductor of the Register has shown that he is alive to the elevated character of his work. Considered as a publication intended for perusal abroad, we deem this a very important part of its merits. Although licentiousness is inseparable from a free press, the fero-

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city of our electioneering discussions has injured us essentially in the judgment of enlightened Europe. It is true, our brethren in England can say but little on this topic, for their press is as licentious as our own, though in a much narrower sphere; but the condition of the political press, in free countries, is already quoted as the justification of its restraint by the arbitrary governments of the continent.

We consider the Editor of this volume of the Register as having done wisely, in abstaining, in a good degree, from the insertion of debates in Congress. As nothing like even a fair specimen of the speeches of the two houses could be given, without unduly occupying the pages of the Register, we conceive it every way better (though otherwise perhaps contemplated in the original plan of the work) to confine the account of congressional proceedings to the history of their progress through the stages of legislation, and a general view of the arguments, by which they are supported and opposed. All else must be left to a *Register of Debates*—a work of prime necessity in the political literature of the country. We had hoped that the spirited commencement, which was made by Messrs. Gales & Seaton, a few years ago, would, under a liberal public and private patronage, have resulted in the permanent establishment of such a work. The private patronage, we regret to hear, has not been commensurate with the acknowledged importance of the undertaking, and the public subscription, if we are not misinformed, has been withdrawn. It will be a matter of just regret should these circumstances cause the suspension of a work of very high importance to the legislation of the country. We yet hope that there will be found enough of public and private liberality to warrant not merely the continuation of the work, which was commenced in 1825, but the collection of the congressional debates from the adoption of the Constitution.

To return to the American Annual Register, we must repeat the opinion that it is a publication richly entitled to patronage. It is essential to the well-instructed politician and the enlightened general reader. It ought to have a place in all our public and social libraries; and in the collections of individuals, who study the history of their country and of their age. It is in its nature a work of growing value. The series of volumes will constitute a repository not to be dispensed with, the importance of which will be out of proportion to that of the

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single volumes, of which it is composed. It is capable of being made, we fully believe, the most popular periodical work published in the country. It would richly repay the time and attention of any conductor, however gifted and respectable. And in exhorting the accomplished gentleman, who is understood hitherto to have presided over its preparation, to persevere in this honorable pursuit, and to make it more and more an object of his studies and labors, we believe we consult the interest of the reading public, as well as his own reputation. If the authority of a name be wanted to stamp a character on the work, let him be reminded, that he is executing a plan, which was first projected by Burke, and for years occupied no small portion of his time.

ART. II.—1. *Fuersten und Voelker von Sued-Europa im Sechszehnten und Siebzehnten Jahrhundert, vornehmlich aus ungedrueckten Gesandschafts-Berichten.* Von LEOPOLD RANKE. [Princes and Nations of the South of Europe in the Sixteenth and Seventeenth Centuries, compiled principally from the Reports of Ambassadors. By LEOPOLD VON RANKE.] Hamburg. 1827.

2. *Geschichte des Osmanischen Reiches aus den Quellen.* VON JOSEPH VON HAMMER. [History of the Ottoman Empire, from Original Sources. By JOSEPH VON HAMMER.] Perth. 1827.

3. *Des Osmanischen Reichs Staatsverfassung und Staatsverwaltung von Demselben.* [Constitution and Administration of the Ottoman Empire. By the same.] Vienna. 1827.

We have recently seen a great empire, which but a few centuries ago, threatened to extend its dominion over all the European continent, preserved from entire ruin only by the relations of its victorious invader with other powers. The terror, which that empire formerly inspired, is proved by the well-known fact, that prayers for the destruction of the Turks are still to be found in the litanies of some of the German churches. It may not be uninteresting to inquire, in what manner, and by what means, so extraordinary a change has been produced in so short a period; and we shall endeavor in

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this article, to present our readers with a brief view of the causes of the decline of the Ottoman empire.

In attempting to ascertain the causes to which the decline of any institution is properly to be attributed, we shall be materially aided in our inquiries, by first investigating those of its ascendancy. We shall thus discover the essential principles of its organisation, in which are not unfrequently to be traced the sources of its decay. The decline of the Roman empire was not owing to its invasion by barbarians, but that invasion was rather the result of its decline. The downfall of empires may doubtless be accelerated by external causes, though the operation of these causes is generally limited and partial. It is to the effect of internal causes, that the greatness of the Ottoman empire, in the reign of Solyman II., as well as the subsequent decline of its power, must be attributed.

In studying the history of the Turks, very little assistance is to be derived from their native writers; but this defect is in a great measure supplied, by the reports of many European ambassadors, who resided at the court of the Sultan, at the period when the Ottoman empire underwent the most important changes. The most valuable of these are the *relazioni* of the ambassadors of Venice. This haughty republic, whose position enabled her not unfrequently to throw a decisive weight into the scale of contending nations, whose commerce brought her into close connexion with the greatest kingdoms, and made her friendship desirable to all, more than supplied her want of physical power by the wisdom of her policy. Her most able and experienced citizens were employed as her representatives at foreign courts. They were required to send weekly statements of all important occurrences to their own government, and upon their return to Venice, to present a very full and particular account of the court and nation in which they had resided, to the Council of the *Pregadi*. This Council was composed of men of talent and experience, who had either formerly been, or might subsequently be called to officiate in a similar capacity. In the reports of the ambassadors the situation and circumstances of foreign courts, the condition of the people, the administration of the government, and their relative position in regard to other States, particularly Venice, were described. Together with his report, the present, which he had received from the sovereign, was laid by the ambassador at the feet of his *Signoria*. These reports were read before

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the council, in presence of the doge, to whom they were addressed; and as they contained the results of acute and personal observation, were commonly interesting and satisfactory. The practice was considered by the Venetians as very useful to the state; and it must have been particularly important at a period, when travellers were not very numerous, and the narratives of their travels were very seldom published. It was, however, condemned by some, who called it a dissection of courts and governments; and we find that these ambassadors were not unfrequently reproached for their freedom and officiousness. The reports were preserved in the archives of the state.

The name *relazione* was first used in 1465, though the ambassadors of Venice were required to note down every thing remarkable which they observed abroad, by a law passed two centuries earlier. Both the name and the practice were retained until so late a period as the beginning of the French revolution. They are frequently referred to between the years 1530 and 1630, during which period, it was not unusual for exalted personages to employ clerks for the purpose of copying them.

The ambassadors of the pope, of the king of Spain, and the dukes of Florence and Ferrara, were instructed to prepare reports of a similar kind; and large collections of these documents were formed, either original or copied, many of which are still preserved in some European libraries. The collection of Venetian *relazioni*, in the library of Paris, is so complete, that, in the opinion of competent judges, it would fully supply the loss of all the archives of Venice. For the first collections of the kind, we are indebted to Cardinal Vitellozo, who spared no labor or expense in procuring these manuscripts, and whose example was soon followed by many other persons of distinguished eminence. Several modern authors have availed themselves of these historical treasures; and in the valuable work of Mr. Ranke, Professor of History at Berlin, the title of which is placed at the head of this article, we see the fortunate result of a diligent and judicious study of them. Of the numerous other writers upon the subject of Turkey, we shall mention only Mr. Joseph von Hammer, one of the first oriental scholars of the age. Three volumes of his great work, the title of which is also prefixed to this article, and which bring the History of the Ottoman Empire down to the

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year 1574, have been already published. Mr. Von Hammer was for many years employed in the diplomatic service of Austria in Egypt and Turkey, and is now interpreter of oriental languages in the department of state at Vienna. Besides the work already mentioned, he has published the Reports of Resmi Ahmed Effendi, Turkish ambassador to Vienna and Berlin; a translation of the Trumpet of the Holy War; a work entitled the Constitution of the Ottoman Empire; and Views on a Journey from Constantinople to Brussa and Olympus.

The origin of the empire of the Ottomans, as it is described in their own traditions, was by no means imposing. It appears from these, that the founder of that empire cultivated the ground with his slaves, and that a flag was employed by him as a signal to call them from their labors at noon. When they accompanied him in his military expeditions, they continued to assemble under the same signal. This personage was favored with a prophetic dream, in which a tree appeared to shoot forth from his body, and to overshadow the world. It is further related, that, after a considerable part of Asia Minor had become subject to this tribe, Solyman, the nephew of Osman, as he was one day riding by the Hellespont, amidst the ruins of ancient cities, fell into a profound reverie. 'Of what,' asked one of his companions, 'is my khan thinking?' 'Of the mode,' replied Solyman, 'in which I shall reach the European shores.' These companions of Solyman were the first Turks who invaded Europe. Amurath I., his brother, conquered Adrianople; and from this time the power of the Ottomans increased with great rapidity. The successors of Amurath were uniformly victorious, until Solyman II., in the beginning of the sixteenth century, became the ruler of a vast empire. The name of this powerful sultan was rendered formidable throughout the Mediterranean by the famous Chaireddin Barbarossa, who boasted that his turban alone, placed upon a staff, would drive the Christians far back into the country. At this time, thirty kingdoms and nearly eight thousand leagues of sea-coast were included in the Ottoman empire; and Solyman assumed the pompous and not altogether inappropriate titles of Emperor of Emperors, Prince of Princes, Distributer of Earthly Crowns, Shadow of God over both Hemispheres, Ruler of Europe and Asia, and of the Black and White Seas. One of the causes of this vast and sudden accession of power was the degenerate condition of the conquered countries; but

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it was principally to be attributed to the peculiar organisation of the conquering tribe.

It was the custom of the Ottomans, to divide the countries which they conquered into a multitude of fiefs. The highest officers of the empire were two *beglerbegs*. Next in rank to them were the *sandgiacbegs*, the commanders of a flag; then the *alaibegs*, who commanded the different divisions of the army; and lastly, the owners of larger or smaller fiefs, which were known by the name of *siamets* or *timars*. All these were compelled, upon the requisition of the sultan, to provide horsemen, varying in number, according to the importance of their respective fiefs. The horsemen, thus furnished, were called *sipahi* or *spahi*. By means of this arrangement, the sultan was enabled at any moment to summon to his standard eighty thousand soldiers from Europe, and fifty thousand from Natolia. The owner of a siamet or timar, with an income of three thousand aspers (about thirty-six dollars and a half), was required to provide a single horseman, and an additional one for every five thousand aspers of additional income. So far there was no essential difference between the feudal system of Turkey, and that of Western Europe. Among the Turks, however, as there existed no nobility, no right of immediate succession was vested in the son. In fact, it was expressly provided by Solyman, that the infant son of a sandgiacbeg, with an income of seven hundred thousand aspers, should inherit only a timar with an income of five thousand aspers, and be compelled in addition to this, to maintain a single horseman. The son of a sipahi, who died in actual service, was entitled to a larger timar, than if the sipahi died at home. The private property of a wealthy sandgiacbeg descended not to his sons, but his successor; and the sons of the most affluent were placed upon a level with those of the poorest, excepting that none but the sons of *timarli*, that is, owners of timars, were entitled to fiefs of this description. In regard to conquered countries, this military body might be considered as a kind of nobility, while in regard to each other, they were on a footing of perfect equality. The system was obviously well calculated to unite the conquerors in a vigorous and powerful corps, completely subject to the sultan, who bestowed these timars at pleasure, and resumed them again after the expiration of a certain period, while, according to the system of Western Europe, fiefs, when they were given to vassals, were generally

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altogether lost to the government. The Turkish system appears to have been the more equitable of the two, as the timars, instead of being inherited, were distributed as the recompense of merit. But it was the feudal system of the West to which we owe the enlightened freedom of modern times, which arose from the conflicts between the interests of different classes of society, placed, by the natural operation of that system, in a state of direct and perpetual hostility to each other, and from the formation and growth of cities, the immediate results of those conflicts. Liberty, as it exists among us, was entirely unknown to the ancients. They saw in the individual only a servant of the state, while we consider the freedom and happiness of the individual, as the purpose for which the state was instituted. The system of the Ottomans, recognising no order of nobility, conferring no permanent privileges, and regarding all as equal, has been correctly described by an ingenious Frenchman, as '*un despotisme absolu moderé par la regicide.*

But there existed among the Turks an institution still more important, which may be denominated an organised system of slavery. The whole country was traversed once in five years by small bodies of soldiers, each of whom was provided with a *firman*, or decree of the sultan. The commanders of these bodies were empowered to summon together the whole male population of every place which was inhabited wholly, or in part, by Christians; and to carry away every individual of whatever age, who should appear to be at all remarkable for strength or beauty, or proficiency or skill in any art. These, together with prisoners of war, were sent to the court of the Grand Seignor. No pacha returned from any expedition, without bringing a present for the sultan of handsome Christian boys, who, though they were for the most part natives of those originally Christian countries, which had been conquered by the Turks, were sometimes brought from Poland, Bohemia, Russia, Italy, and Germany. The individuals thus collected were divided into two classes. Those who belonged to one of these classes were educated by the peasants of Asia Minor in the Mahometan faith, or employed as menial servants in the sultan's seraglio; while the members of the other class, which consisted of the most promising, were placed in the seraglios of Adrianople, Galata, and Constantinople, where they were taught to read and write by teachers, whose compensation

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amounted to eight aspers (about six cents) a day. If public education be valuable in proportion to its cheapness, nothing can be more meritorious than the Turkish system of instruction.

At a certain age, these youths, for they were generally such, were circumcised, which ceremony being performed, those who had been engaged in menial occupations were enrolled as Janissaries, and those, who were educated in the seraglio, were made sipahis: not, however, sipahis with a fief, but of that number, who were paid by the sultan, and attended him as a mounted body-guard. The latter were sometimes elevated to the highest offices of the government.

The members of both these classes were subjected to the severest discipline. It is stated in a *relazione* of Sorranzo, that the menial class were instructed in all military arts, and taught to endure the extremity of abstinence and privation. At night, they slept together in a long lighted hall, where they were watched by a vigilant inspector, who hardly permitted them to move. At a later period, when they were enrolled as Janissaries, they were lodged in barracks resembling convents. They were there arranged in separate *odas*, and cooked, ate, and slept together: in fact, most of their military dignities received their appellations from the kitchen and its dishes. Here, no law was recognised, but that of subordination and obedience. All were subjected to the strictest regulations, and the younger were compelled to respect and serve the elder. No one was ever permitted to pass the night without the barracks, and whenever corporal punishment was resorted to, the sufferer was required, with his head veiled, to kiss the hand of him, who inflicted it.

Those, who remained in the seraglio, were divided into classes under the control of eunuchs. Each of these classes was composed of ten members, who were regularly instructed in science and in military exercises for the term of three years, at the expiration of which they were permitted by the sultan to leave the seraglio. If they preferred to remain there, they were gradually advanced from *chamber* to *chamber*, according to their respective ages, until they attained perhaps one of the four higher offices of the *inner chamber*, from which station they might be promoted to the rank of a begler-beg, a *capitan-deiri* (admiral), or a vizier. Those, who chose to leave the seraglio, were admitted as members of one of the

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four highest classes of the paid sipahi, and might be seen galloping out of the city, exulting in their new dresses, and gaily swinging the purses, which they had received from the sultan.

It will hence be perceived, that the institution of the Janissaries was only a part of a well-organised system of slavery, which answered perfectly the purposes for which it was designed. All the *relazioni* agree in extolling their valor, temperance, and admirable discipline. Busbeck, the Austrian ambassador at the court of Solyman, remarks, that they appeared to him sometimes to resemble monks, and sometimes statues; and that their dress, with the exception of the plume of heron's feathers, was extremely simple. Native Turks were uniformly excluded from their ranks, as was the case with all others, who had been brought up under the parental roof. By means of this singular institution, Christian boys, taken forcibly from their homes, or from convents and taverns, were raised to the highest dignities of a vast empire, while it served at the same time as a school of education for those soldiers, on whom the sultan always placed his principal reliance. Many victories were gained by their unaided exertions, and but for them the battle of Varna, which laid the foundation of the Ottoman greatness, must have been lost. They were accustomed to boast, that they had never been defeated, and Lazarus Schwendi, a German commander, who made several campaigns against the Turks, confirms the truth of this assertion. Nor were the effects of the system less striking in regard to the *sipahis*, and the other portion of those, who had been educated in the seraglio, and who were subsequently employed in civil offices. A single instance only, that of the noble Scanderbeg, occurred of the return of any of their number to the Christian faith. The Janissaries elected their Aga from their own ranks. There was no order of nobility to control their ambition, and prevent them from receiving the advancement due to their enterprise and valor. A field of action was thrown open to all; and they ceased to remember that they were merely slaves. It was by no means rare for Christians to forsake their own country and religion, in order to become slaves with them. Even the sultan, their absolute and only master, was not entirely independent of their will. Not even the son of a vizier, who had just been promoted from their ranks to that exalted station, could be added to their number. The sons of the sipahis and officers of government,—for the

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Janissaries were not allowed to marry until a later period,—were compelled to enter the fifth and sixth divisions of the paid sipahi, or were made timarli, among whom, as we have already seen, the territory of the whole empire was divided. This corps of vassals was thus constantly recruited with new members, more deeply indebted, and consequently more devoted to the sultan, than the sons of timarli could have been.

We have thus attempted to describe a most singular institution, by means of which the support and defence of a vast empire was made to depend wholly upon foreigners and slaves, so enamored, notwithstanding, with their condition, as to fight with the utmost readiness and fury against their own countrymen.

The whole power of the Ottoman empire accordingly was vested in two bodies; first, in the timarli, who were native vassals of the sultan; and secondly, in those slaves, of whom the greater portion constituted the flower of the Turkish army, while the rest were employed in the capacity of civil or military officers. The very existence of both these bodies depended altogether upon a state of war. During peace, the sultan could bestow no new timars, and the corps of Janissaries were in danger of sinking into degeneracy. It was war, therefore, which laid the foundation of the Turkish power, and it was by war only, that this power could be preserved. Nor was it less essential to the sultan's personal security, whose vassals must otherwise have aspired to independence of their master. In fact, so thoroughly martial were the Turks, that the camp appeared to be their home; and at the period of their greatness, it is said to have presented a most imposing spectacle. Every thing was kept in a state of remarkable cleanliness and perfect order: neither swearing, quarrelling, drinking, nor gambling was permitted. Every sipahi was furnished with a tent. A horse was provided by the sultan to convey the baggage of every five Janissaries, and a common tent for the accommodation of every twenty-five. Their arrangement, discipline, and mode of living were as simple and rigorous in the camp as in the barrack, while the camp abounded with gold and silver, precious stones, splendid arms, the finest horses, and eunuchs. What a contrast to the turbulent and unruly mass of a feudal levy!

This warlike propensity was also cherished and confirmed by the Mahometan doctrine of predestination; while the pro-

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hibition of the use of wine and ardent spirits, and the injunction of frequent bathing and ablutions were highly favorable to a military life. It is worthy of remark, that the Christians are uniformly called citizens and the Turks *askeri* (soldiers), when both are mentioned in the national decrees. In a system like this, which was exclusively military, and destitute of any common principle of union, it was also indispensable, that the sultan, the soul and centre of the whole, should himself be animated by a warlike spirit, and we find accordingly, that the power of the Ottoman empire began rapidly to decline, when the sultans ceased to be soldiers, and the situation of the neighboring countries rendered conquest no longer possible.

The same circumstances then, to which the greatness of the Ottoman empire is to be attributed, became subsequently the immediate causes of its decline. The influence of the Mahometan religion has been sometimes included among these causes. We are far from believing, that this religion is positively favorable to the progress of civilisation; nor do we conceive that it tends directly to obstruct it. It would be unfair to judge of the character of Mahometanism, from the exhibition of it, as it appears at this day, among the different nations of the east. The time has been, when the attainments of the followers of Mahomet in art and science were far greater than those of Christians, and when the personal character of the former was by far the most chivalrous and elevated. We allude to the Arabians of the middle ages. The Turks, from whom our ideas of Mahometanism are commonly derived, were long regarded even by other Mahometans as a rude and uncivilised tribe. The union of a civil code with the rules of religious faith in the Koran, is undoubtedly of pernicious tendency; and we know, that this religion has often been employed as an instrument to excite its followers to unjust and unnecessary war. In the Trumpet of the Holy War, to which we have already adverted, it is enjoined, that infidels must either be converted or subdued; and that, where they are obstinate in heresy, their extirpation is an act of holiness, which deserves the most exalted recompense in heaven. This book, however, is not, like the Koran, regarded as of divine authority and origin. It was translated into the Turkish language by order of Solyman II. for the use probably of the youth in his seraglio. The same sultan promulgated a code, called *multeka*, very similar to some of the papal bulls, in which war is earnestly recommended against all unbelievers.

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In proceeding to give an account of the decline of the Ottoman empire, we shall in the first place speak of the character of the Sultans. The contrast between the predecessors and successors of Solyman has been often noticed. Prior to his reign, the Ottomans were animated by a spirit so gallant and chivalrous, that we read their history with feelings of admiration, rather than disgust; but the scene is suddenly and completely changed. The Sultans became indolent and voluptuous; internal discord followed; sons rebelled against their fathers; defeats were sustained on the frontiers and at sea; and the weakness of the whole system was at once revealed, when its rulers became incompetent to its direction and control. We will mention some particulars of the history of Selim II., the successor of Solyman, as an illustration of the remark, both because his example was imitated by many succeeding Sultans, and because several essential innovations were accomplished during his reign. Among these changes there was one of great importance. It might appear that the harem would destroy the warlike spirit of its master, but its voluptuousness is not very likely to attach men to domestic life. According to an ancient custom, the mother of the sultan's first-born son was entitled to the highest rank among the females of the harem. Solyman thought proper to violate this usage, by marrying a slave named Roxalana; and a singular narrative of this event is contained in a letter of the French ambassador Codignac. He tells us, that Roxalana was anxious to build a mosque for the salvation of her soul, but it was declared by the *Mufti* (chief-priest), that the pious acts of a slave operated only for the spiritual benefit of the master. To gratify her wishes, Solyman emancipated her; but the free Roxalana being somewhat less submissive to his passion than before, and the *fetva* of the Mufti having determined that she could not become so without sin, he at length married her and settled upon her a pension of five thousand sultanas. The ambition of the lady was not yet satisfied; for she instantly requested Solyman to appoint her son Selim his successor, to the exclusion of Mustapha, his elder son by a different mother, who was much esteemed by the Turks. Upon receiving information of this, Mustapha withdrew from Constantinople; but was immediately denounced as a rebel by his father, who pursued him into Asia, and ordered that he should be put to death. Bajazet, a son of Roxalana, fell also by the hand of

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Solyman's executioner, according to a Turkish custom, which requires that all the sultan's younger brothers must be destroyed, when he ascends the throne. Roxalana's projects of ambition were accomplished; and her son Selim was the first in the series of inefficient and degenerate sultans.

During the reign of Solyman a law was abrogated, which exempted the Janissaries from the performance of active military duty, except when they were commanded by the sultan in person. The effect of this change became very obvious in the reign of Selim. Formerly, the sons of the sultan accompanied their father to the field, or were intrusted with the conduct of military operations; and some of the most important conquests had been effected by their ability and valor. From this period, they were banished from the court and the camp, and placed under the charge of a pacha in some remote province, until at last they were actually confined in prison, until the very hour of their accession to the throne. The supreme command must then have fallen into the hands of an individual, who had been during his life deprived of personal liberty, and who, when suddenly elevated to the absolute command of millions of men, must have been intoxicated by the possession of unrestricted power.

In the beginning of his reign, Amurath III., the son of Selim, appeared to be studious, temperate, and manly, and not averse to the hardships of a military life. The following story is related of this prince, in one of the *relazioni*. It has been already mentioned, that a custom of the Turks required every sultan, when he first assumed that dignity, to put his brothers to death. This usage was not of very ancient date; since the brothers of Osman are known to have accompanied him to the field. Amurath, being of a mild and merciful disposition, was anxious to provide for the safety of his brothers before taking possession of the throne; and with this view consulted with his *Muellim*, his Mufti, and other learned men. So persuaded were they, however, of the necessity of the sacrifice, that his arguments were wholly ineffectual; and he yielded only after he had disputed with them on the subject for the space of eighteen hours. He then summoned the chief of the mutes, and, pointing to the corpse of his father, gave him nine handkerchiefs for the purpose of strangling all his brothers. As he delivered them he wept. It is farther related of him, that he once inquired, after the history of his father had

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been read in his presence, what war would be attended with the greatest difficulty? 'War with Persia,' was the reply. 'That,' then rejoined Amurath, 'is the war, which I shall undertake.' But the character of this monarch underwent subsequently an entire change. He soon began to betray a strong aversion for warlike exercises and the chase. The strength of his ruling passions, avarice and voluptuousness, were developed in the seclusion of his palace, where he lived surrounded only by his mutes, dwarfs and eunuchs. By the indulgence of the last of these passions, he destroyed his health; and in regard to the degree in which he was governed by the other, it is said by some of the European ambassadors, that he caused a subterraneous cell of marble to be constructed, in which he annually buried two millions and a half of piastres; and that he melted and coined the golden ornaments of ancient works of art, in order to deposit them in the same cell, the door of which was concealed by his bed. Offices became venal; and nothing but liberal presents could secure his favor. When his audiences were concluded, at which those who brought him the most magnificent gifts were noticed only by an indolent nod, it was his custom to retire to his gardens, where his principal amusements were mock battles with his deformed mutes, singing or dancing women, or lascivious comedies performed by Jews.

Ahmed, who was a sultan of manly and benevolent character, began to reign in 1603, in the sixteenth year of his age. Though his ambition appeared to have been excited by the achievements of Solyman, he effected no enterprises of a warlike character. In fact, no occupation, or pleasure, had power to fix his attention long, and none of his many plans were ever completely executed. His successors, with the single exception of Amurath IV., were men of inferior capacity. That sultan at first gave much promise of talent and strength of character, but subsequently became stern and cruel. In the space of five years, twenty-five thousand persons were put to death by his order, or with his own hand. He attempted to restore the discipline and efficiency of the Janissaries, who had lost much of their former superiority; but his exertions were ineffectual; while, by allowing to Mussulmans the use of wine, besides violating a positive injunction of the Koran, he encouraged disorder and licentiousness among a people, who could be controlled only by rigorous laws.

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The *Veziri-Aasam*, or Grand Vizier, who was in reality, as he was sometimes denominated, master of the empire, occasionally supplied by his talent and vigor the want of those qualities in the sultan. During the reign of Selim, the government was administered by Mehmed, by birth a Bosnian. This most able and excellent Grand Vizier received the rudiments of early education in the family of his uncle, a christian clergyman of Java, but was placed while still young in the seraglio of the Grand Seignior, where he was brought up according to the rules of the institution, an account of which has been already given, until he was preferred at length to the highest offices of the empire. The ambassadors have uniformly described him as active, just and liberal, averse to revenge and avarice, and not at all inclined to abuse his unbounded power. His decisions were always prompt and impartial, and the very meanest individual found as ready access to him, and as quick redress of his grievances, as the most exalted. Four days in the week he held a public divan for this purpose. He caused aqueducts, bridges, and public baths to be constructed in every part of the empire; and was particularly attentive to the establishment of caravansaries, where food was gratuitously provided for the weary traveller. From the fear of exciting the Sultan's jealousy, he erected no edifice in Constantinople, excepting a small mosque, in which his twelve children, who were put to death because their father was the son-in-law of Selim, were buried. His power was limited by Amurath III., the successor of Selim, in order to favor the viziers of the *Cupula*, who were subordinate to the Veziri-Aasam; but he succeeded in preserving the favor of three Sultans, until at length he was assassinated by a timarli, whom he had for some good reason doubtless deprived of his timar. With him, says Floriani, the virtue of the Turks was extinguished forever. The viziers became no less degenerate than the Sultans; and even those of benevolent disposition were compelled to sacrifice their good intentions to the caprice and avarice of their masters. Sinan, one of the viziers of Amurath, would sometimes present him with two hundred thousand zekins in order to secure his favor, while the Capudan Cicala openly declared, that he was compelled to resort to piracy, to find the means of making similar presents. The vizier was no longer selected only from among the slaves of the seraglio. Great calamities were also brought upon the people by the

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frequent change of these officers. Extortion appeared to constitute their sole qualification. In fact, the whole system of government became little better than a vast system of extortion. Regardless of the proper business of their office, the viziers lived in a style of luxury and splendor scarcely surpassed by that of their masters; and their example was speedily imitated by all the inferior officers of the empire. All the true objects of government were utterly neglected. The name of ruler had no other meaning than that of a robber and disturber of the peace. Factions arose within the very walls of the seraglio; and the Kislar-Aga, chief of the black eunuchs, became a personage of great influence and dignity. In the mean time, the changes of the viziers became more and more frequent; for nothing more was required for their removal, than to send the executioner to them with a cord—an intimation, upon receiving which, it was the duty of the individual to whom it was addressed, forthwith to hang himself. This summary process was the approved Turkish method of reform.

So long as their ancient customs underwent no change, the Janissaries were almost invincible; but they also participated in the universal spirit of degeneracy, and became turbulent and ungovernable. About the time of Selim's accession, Mehmed, the Grand Vizier just mentioned, had obtained possession of Sigeth, a small fortress in Hungary; but having refused to allow the Janissaries the present, which was usually given when a new sultan was girded with the sword of Osman, they deserted him, and hurried back to Constantinople in a state of great disorder. They reached the city before Selim had arrived from Asia, and declared that the Sultan should not be permitted to enter the seraglio, until they should receive in addition to the customary present, a promise of increased pay, and permission to enrol their sons as members of their body. All efforts of the viziers to induce them to return to their duty, were wholly unavailing. In vain did their Aga throw himself into the midst of them, with the handkerchief, the instrument of execution, bound upon his head. The gates of the seraglio were not opened, until all their requisitions had been complied with. This was the first in the series of those revolts and massacres of the Janissaries, by which so many Sultans subsequently perished. Thenceforth, like the prætorian guards of Rome, they became the absolute controllers of the succession to the throne. The sword of Osman had hitherto descended

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regularly from father to son; but they chose to confer the sovereignty on Mustapha, the brother of Ahmed, whose life had been spared by the latter, because, being an idiot, he was regarded among the Turks as an oracle. Shortly after, they deposed Mustapha and called Osman, Ahmed's son, to fill the vacant throne; but being soon dissatisfied with their new Sultan, they dragged Mustapha, who had been confined in a subterraneous cavern, forth again to light, and at once restored him to his former dignity. But this strange ruler was destined to experience a repetition of his former disaster; being deposed a second time, and compelled to surrender his authority to Amurath IV., the second son of Ahmed, who succeeded in setting his benefactors at defiance by his relentless cruelty, and by the murder of their chief. As a military corps, however, the Janissaries were at this time far less efficient and powerful than at any former period. In addition to the change of their ancient customs, to which we have already adverted, they were permitted by Ahmed to engage in commerce and the mechanical arts; until at length they became the laughing-stock of Christian armies. The forcible capture of Christian boys was abandoned as early as the middle of the seventeenth century, very fortunately for the Greeks, whose struggle for independence must have been delayed much longer, if their finest youth had continued to be torn from them and placed in the seraglio.

Native Turks began now to be admitted to the highest dignities, and the habit of blind obedience was gradually abandoned. Every subject is supposed to be the slave of the sultan; but there is a wide difference between the subjection of a native Turk, and of a pupil of the seraglio. The sipahi, after the admission of the Turks into their ranks, became like the Janissaries, turbulent and factious. In 1589, they compelled the Grand Seignior to reinstate Sinan, who had just been deposed in the office of Grand Vizier. Nor was the degeneracy of the timarli less rapid in its progress. The timars, which had been originally granted to the sons of sipahi only, were bestowed upon many others. Like the sultans, pachas and sandgiacks gave them to their favorites, or sold them to the highest bidder. The obligation to maintain a certain number of horsemen, and to exercise themselves in the use of arms, was entirely disregarded. Aini, a feudal officer of Ahmed, complained most bitterly of these abuses. He declared, that reviews

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of the sipahi were abandoned; that a sandgiack, bound to maintain a hundred horsemen, actually maintained hardly fifteen; and that no more than a tenth part of the enrolled number, ever made their appearance. In the reign of Selim II., Nasut, his Grand Vizier, fell into disgrace in consequence of his efforts to reform these abuses. They were in the first instance owing to an innovation made by Solyman, in bestowing timars upon the sons of foreigners. All these different institutions had been formerly kept separate with the greatest care, and when this ceased to be the case, they soon lost all their efficiency and character.

We have thus given a brief sketch of the decay of those institutions, on which the greatness of the Ottoman empire was founded; and singular as the fact may appear, this decline may be traced as far back as the reign of Solyman, whose power exceeded that of any other contemporary sovereign. It was then that the women of the harem first began to exert an influence in the management of public affairs. It was by his appointment, that the sceptre passed at his death into the hands of the least efficient of his sons. The changes made by him in the feudal system were important and numerous. With his reign, the progress of Ottoman conquest was arrested. He had already carried his victorious arms into Persia in the East, and as far as Vienna in the West; and the valor of Barbarossa had rendered him master of the Mediterranean. But a sad reverse awaited his successors. The Persians, though far inferior in power and numbers, supplied their defect of power by their veneration for the Shah; and resorted against the Turks to the same experiment of laying waste their country before the enemy, which has more recently been employed by the Russians against a modern despot, while in the West, the advances of the Ottomans were checked by the energy and vigor of the House of Hapsburg. Their attempts to capture Malta were unavailing. It cost them prodigious efforts to reduce a few small castles in the Austrian part of Hungary; and their maritime power was broken by the defeat which they sustained at Lepanto in 1591, a blow from which their navy has never yet recovered.

It was the natural effect of the institutions which we have mentioned, that the Turks remained a peculiar people, distinct and separate from the inhabitants of the countries, which they overran. In fact, they were never really established in

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those countries, as the Germans were in Courland, or the Normans in Great Britain; but resembled rather a garrison, or an army of occupation. Far from imitating the industry of those countries, they endeavored to destroy it. Instead of advancing in civilisation themselves, they obstructed the progress of every subject nation. They of course experienced no sympathy or support. They were regarded only in the light of inexorable and oppressive masters; and they were secure only so long, as the oppressed could find no means of effectual resistance; so long only, as they continued to be united, well-disciplined and vigilant. Neither the constitution of the empire, nor the character of the Turks, were at all favorable to the progress of civilisation, even among themselves. It is true, that they have been frequently pronounced by travellers, among the rest by Lord Byron, to be better than the Greeks; and we have some personal knowledge of the correctness of this assertion. Nor is this surprising. Where oppression has been long-continued and severe, the spirit of the master is always loftier and more generous than that of the slave.

We intended only to give a brief outline of the causes of the decline of the Ottoman empire; and the task would be by no means uninteresting of tracing the history of that decline down to the period, when the present Sultan Mahmud II., attempted to introduce many European improvements and modes of organisation. The corps of Janissaries, as is well known, was dissolved if not destroyed by him in 1826. What would have been the natural effects of this measure, it is useless now to conjecture. This fact at least is certain, that the Turks were never less powerful than at the moment of the late invasion; and their imbecility appeared so much the more striking, from having been previously in a great measure concealed by that envy and jealousy, which induced several of the European powers on all former occasions of the kind, to uphold and strengthen them, and to arrest the progress of their assailants.

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ART. III.—*Catalogue of the Pictures exhibited at the Fourth Exhibition in the Gallery of the Boston Athenæum.* Boston. 1830.

The community are in our opinion deeply indebted to the proprietors and trustees of the Athenæum, and especially to the public-spirited and intelligent gentlemen composing the committee employed for this purpose, for their unwearied and very successful exertions to organise an annual exhibition of paintings in this city. A spectacle of this kind, continued for a series of years, and afforded at a price, which places it within the reach of almost every citizen,—while it furnishes a cheap, rational and elegant entertainment,—serves at the same time to refine and exalt the character of the people. Painting—like eloquence, poetry, and the other fine arts—is one of the developments and exhibitions of the higher and better principles of our nature. The cultivation of the art, and the habit of seeing and admiring its products, tend in connexion with other causes to raise the mind above the sordid interests of a mérely material life. It has often been said—and probably with truth—that the peculiar grace and softness of manner, which distinguish the Parisians of all classes, have been derived in part from the effect of a frequent contemplation of the treasures of art contained in the Gallery of the Louvre. The poet Goethe mentions as one of the means which he employed for maintaining his taste and talent in a progressive state, that he had crowded his study with the finest specimens of sculpture and painting, which he could procure. Nor is the advantage confined to an amelioration of the mere external forms of social life or a heightening of the aptitude for excellence in other branches of art. The taste for Beauty in art and nature is nearly allied to the love of Good—so nearly indeed, that it has often been doubted whether Beauty be any thing more than a visible manifestation of those amiable moral qualities of which the mere idea fills the heart with delightful emotions, and confers a charm on every person or thing with which they appear to be associated. However this may be, it is certain from experience, that a familiar observation of the beautiful forms of nature and the imitations or expressions of them in works of art, has the effect of cherishing the benevolent affections, repressing evil passions, and improving the general tone of moral feel-

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ing. In a community like ours, where the disposition to active pursuits, and the selfish views and angry controversies that are naturally connected with them, is perhaps too strong—where the form of the government keeps up an almost uninterrupted war of political parties—it is highly important that every principle of a soothing and civilising tendency should be brought as much as possible into vigorous action. The cultivation of the arts, if not the most effectual of these principles,—and we are not disposed to exaggerate its influence,—nevertheless has its value. It comes in aid of the great and essential elements of civilisation, which are found in a judicious system of political and religious institutions, and gives the last polish to the character of men and nations. Nor is it any objection to the encouragement and cultivation of the arts, that they may be and have been made subservient to the purposes of vice. If it were, we should be obliged to abstain from the use and enjoyment of all the good gifts of nature. It may also be remarked, that in a young and progressive community like ours there is very little danger of such a result. The abuse of art for the purpose of flattering licentious passions is always a symptom of its decline, and indicates rather than produces a corrupt state of moral feeling. While the condition of society is healthy, and the arts are flourishing, the artist is in general found to be endowed with a pure and 'excellent spirit.' Art is then like the Archangel in Milton's Poem—

Severe in youthful beauty.

She draws her inspirations from the high and holy sources of religion, and dwells in preference on subjects connected with serious contemplations. The artists of the age of Leo X. rarely employed their pencils upon any other than scriptural scenes; and this very circumstance is doubtless one among the causes of their extraordinary success. They rejected with unerring instinct, rather than on fixed principles or from any calculation of probable effect, every low idea as inconsistent with the train of their habitual studies, and such must ever be the case with those who have actually attained or are capable of rising to real excellence. We may add, that experience fully confirms the opinion, that in this country there is very little danger of the abuse of art. In painting—and the same may be said of the sister arts of eloquence and poetry—the prevailing style and the only one which meets with any

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public favor is of the severest cast. This circumstance, independently of its other beneficial effects, may be looked upon as one of the most flattering prognostics of the progress which the arts will probably make among us. The only important exception to the uniformly pure and correct character of all the products of art in this country is to be found in our theatrical entertainments, which have hitherto been merely copies of the worst models that are furnished by the corrupt societies of the old world. If the managers of these entertainments would try the experiment of making them—as they might be made—schools of good feelings and principles, instead of nurseries of vice, they would soon find in the increased patronage bestowed upon them, the difference between obeying the just demands of the public sentiment, and treating them—as they now do—with continual and systematic outrage.

The exhibition of this year was not perhaps quite equal to some of the preceding ones. It contained, however, a considerable number of first-rate works of the old masters, several beautiful copies of originals in Europe, and a variety of excellent native productions in the different walks of this enchanting art. We propose to offer a few remarks upon some of the pieces which more particularly attracted our attention. It is impossible in a single article of this kind to exhaust the subject, and we shall not be understood to intimate that other pieces may not be equally or perhaps better entitled to notice. In making a selection, we must of course prefer those in which we felt the deepest interest, although this interest may have been in some cases the effect of accidental and local causes.

Among the works of the old masters exhibited on this occasion, the most remarkable was the *Martyrdom of St. Lawrence*, by Titian. This large picture, belonging to Mrs. Meade of Philadelphia, is an undoubted original, in the best manner of that great artist, and in a state of complete preservation. It exhibits in full perfection the beauty, mellowness, and perfect truth of coloring, which formed the characteristic excellences of Titian, and in which he has never been surpassed. In the moral expression of his personages—the highest effect of the art—his superiority in this, as in his other works, is less decided. It is even somewhat difficult to determine precisely what expression he intended to give to his principal figure. St. Lawrence—as our readers will of course recollect—suffered martyrdom in the not very poetical form of being broiled

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to death upon a large gridiron. In the picture of which we are speaking, the Saint is stretched at his length on this instrument of torture over a blazing fire, which two or three executioners are engaged in stirring and feeding with fuel. In the legend the gridiron is said to have been heated red hot before he was placed upon it. In the painting, there is, however, no effect of fire observable, either on the person or drapery of the martyr, and his face is turned upward with a perfectly serene and tranquil expression. It was probably the design of the artist to intimate by this expression, the triumph of religious faith and hope over bodily anguish; but it is hard to conceive that the effect should extend so far as to guarantee the limbs and even the drapery from the action of fire. It would be therefore more natural to imagine that Titian meant to indicate a supernatural interposition in favor of the Saint, like that which is represented as having taken place at the martyrdom of St. Polycarp, when the flames that were kindled at the foot of the stake to which he was attached, retired as they rose from the person of the holy man, and formed a sort of hollow sphere around him, refusing even to singe a hair of his head. But it is hardly probable that Titian would have varied from the legend, which states that St. Lawrence actually suffered death in this form; and we may therefore conjecture that he probably sacrificed the truth of his painting, in order to avoid the exhibition of the disgusting image of mere physical suffering. In other respects, the image of nature is admirably preserved. The ferocious countenances of the executioners contrast finely with the sweet expression of the suffering Saint. The figures are well drawn and grouped, and the painting wears in every part the appearance of a carefully wrought and highly finished production.

This fine picture was purchased in Spain by Mr. Meade, formerly our Consul at Cadiz, and was no doubt painted at Madrid, where Titian resided for several years. Although the subject is in some respects not a very seducing one, he appears to have painted it a number of times. We have had the pleasure of seeing another picture of his on the same subject, though varying a little from this in the details, in the Chapter-House of the Convent of the Escurial, and we are informed that there are two or three more in existence. The first was probably executed for the purpose of being placed in the Escurial, the subject having been selected with a view to this

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destination. This convent, as our readers are probably aware, was erected in honor of St. Lawrence.—Its proper style and title is the Convent of the Royal St. Lawrence—*San Lorenzo el Real*—the name *Escurial* or *Escorial*, as it is written in Spain, being that of a neighboring village, and, as is generally supposed, a corruption or modification of the word *scoriae*, which expresses the cinders and rubbish proceeding from a mine that was formerly wrought on this spot. It is well known that Philip II. before going into the battle of St. Quentin—which was fought on St. Lawrence's day—made a vow that if he gained the victory, he would erect a convent in honor of the Saint, and in the shape of the instrument on which he suffered martyrdom. Having in fact won the day, the King, or rather the ingenious and justly celebrated architect Herrera, whom he employed, not only executed this vow to the letter, but contrived at the same time to produce a building, which is justly considered as one of the finest specimens of modern architecture. It would be hard to imagine beforehand how so handsome an edifice could possibly be built upon a model apparently so ill adapted to the purpose; but the architect by a happy exertion of ingenuity, similar to that by which Columbus succeeded in setting his egg upright upon its smaller end, removed at once the principal difficulty, by turning the gridiron upon its back with its legs upwards. The achievement was now comparatively easy, and the building to be erected susceptible of a high degree of architectural beauty. It is constructed of a handsome reddish freestone, in the form of a hollow square, the four sides of which are connected together by several lines of buildings crossing each other at right angles, and enclosing a number of small courts. The four sides represent the frame, and the interior buildings the bars of the machine, while at the points where they intersect each other, and at the four corners of the main edifice are placed towers, which represent the legs. From the side opposite the main entrance projects a wing, which forms the handle. This wing with a part of the side of the main edifice adjoining it, is occupied by the Court when they take up their residence at the Escurial. The remainder of the building consists of the large and truly magnificent church, two libraries, and the public and private apartments appropriated to the use of the monks who inhabit the convent. One of the libraries contains the collection of Arabic Manuscripts, which is considered the richest in Europe.

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We found on inquiry, that there is at present no person in the convent who reads that language. The exterior of the building is decorated with great taste, and the general appearance is simple, imposing, and on the whole highly satisfactory. It stands on the declivity of a mountain; and at a considerable height above is a stone seat—called Philip's Seat—where the interior courts are distinctly seen, and the gridiron principle of the plan becomes apparent in all its beauty. On this seat the gloomy despot who ordered the construction of the building was accustomed to repose in his solitary walks, and contemplate, no doubt with great satisfaction, the complete success with which he had executed his pious and somewhat singular design. The interior of the convent is adorned throughout with the choicest productions of the pencils of the first artists. The principal stair-case was decorated by Jordaens, and is considered his finest work. The cloisters were painted in fresco by a celebrated Spanish artist, called from his having been dumb, *El Mudo*. The public apartments are hung with the masterpieces of Raphael, Titian, Rubens, Murillo, Velasquez, and the other principal painters of the Spanish and Italian schools. In the sacristy is to be seen among other beautiful pieces a celebrated Holy Family, by Raphael, which on account of its singular perfection, is commonly called the *Pearl*, and which was purchased for the King of Spain by his Ambassador at London at the sale of the paintings of Charles I. In the Chapter-House is the *Madonna de la Pez*, or Virgin with the Fish, by the same great artist, which is reckoned in like manner one of his capital pieces. The subject is singular, and if taken literally involves a good deal of anachronism. The young Tobias of the Apocrypha, holding a fish in his hand by a line, is presented to the Virgin. She is seated as usual with the infant Jesus in her arms, who is eagerly extending one of his hands to grasp the fish, and with the other is playing with the leaves of an open bible, which St. Jerome is perusing on the left. The painting is commonly supposed to be an allegorical representation of the admission of the Apocryphal books into the Canon of Scripture by the Council of Trent. This piece, with the *Pearl*—the *Pasmo di Sicilia*, now in the museum at Madrid, by the same artist, which was painted as a companion-piece to the *Transfiguration*, and is considered next to that as his best production—and a number of other pictures, was transported to Paris during the period of the French ascend-

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ency in Spain, and exhibited for several years in the Gallery of the Louvre. They returned after the abdication of Bonaparte, varnished and *restored* in a way, which has not been thought by competent judges to increase their value. In the same apartment with the *Madonna de la Pez* is the *Martyrdom of St. Lawrence*, by Titian, which has led us into this little digression. It is not in so fine a state of preservation as the one which was exhibited at the Athenæum, having suffered a good deal of late, in common with many of the other pictures in the Escurial, from want of attention. It still, however, produces great effect.

Among the other paintings of Titian preserved at the Escurial, is a remarkable piece commonly called *Titian's Glory*, which did not obtain the dangerous honor of a transportation to Paris, and consequently exhibits at present the real touches of the masterly author in a state of greater purity than it would have done if it had undergone a reparation by a modern French painter. The hint of this superb picture seems to have been borrowed from the *Transfiguration* of Raphael, and the general aspect of it is somewhat similar although its subject is wholly different. The painting exhibits the various orders of the heavenly host in the act of adoring the Supreme Being. The three persons of the Holy Trinity, drawn with their usual attributes, dressed in sky-blue drapery and surrounded by a *Glory*, which gives its name to the painting, occupy the upper part of the canvass. They are nearly in the attitudes of the three principal figures in the *Transfiguration*. Below are the saints and angels—'Dominations, Princedoms, Virtues, Powers'—gazing upwards with adoring looks at the object of their worship. The subject of this picture is conceived in a loftier tone of thought and feeling than that of any other piece of Titian's, which we have seen, and the execution does it perfect justice. The work, however, does not seem to have been fully appreciated by its present possessors. It now hangs without a frame in a small room, which serves as a sort of passage from one part of the convent to another, but which contains, it is true, some other very fine pieces. It was probably owing to its being kept in this comparatively obscure place that it was not carried to Paris. In the same room is an exquisite *St. Catherine* by the same artist—a single figure in a green drapery, discovering one leg and foot, which have often been cited as models of perfection for this part of the

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female form. There is a repetition of this charming piece in the museum at Madrid, where there are also a number of other fruits of the labor of the same indefatigable and prolific genius while in Spain. We may mention particularly the portrait of Charles V. on horseback, the *Danaë*, the *Ariadne* and the two full length portraits of the Princess of Eboli, sometimes called the *Venuses*, from their being entirely without drapery. This celebrated favorite of Philip II. figures to more advantage under the pencil of Titian than she does under the pen of Schiller, who has introduced her as one of the characters in his tragedy of *Don Carlos*. It is rather a singular circumstance, that with no recommendation but mere beauty she should have had the fortune to be handed down to immortality by the separate labors of these two masters in their respective arts. In all these pieces the art of coloring—especially in its application to the human body—is carried to the highest perfection which it has ever attained or is probably capable of attaining. We well remember the air of satisfaction with which the distinguished Scotch artist Wilkie, with whom we had the pleasure of going through the museum at Madrid, pointed to the figure of Ariadne, and pronounced it a piece of real flesh and blood. For this reason the works of Titian are excellent studies, more especially at a time when the example of the modern French school has a tendency to diffuse a false taste in this branch of the art. We are highly gratified that so fine a work of this great colorist as the one we have been considering should have been obtained for the Exhibition, and only regret that the funds of the Athenæum were not in such a state as to allow of its purchase. It is true, that the subject is not so attractive as might be wished; but it is rare that a first-rate painting by this great master is for sale even in Europe, and a century may probably elapse before another opportunity will occur for procuring one in this country.

Having had occasion to advert to the collections of paintings that are found in Spain, we proceed in this connexion to mention, as one of the principal ornaments of the Exhibition at the Athenæum Gallery, the fine picture, by Murillo, of the *Meeting of Rebecca and Abraham's Servant*. This we are happy to say belongs to the institution, and has of course appeared at the preceding exhibitions, but is well worthy of continued notice and attention. It is not indeed by any means so

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good a specimen of the manner of Murillo as the *Martyrdom of St. Lawrence* is of that of Titian; and it also appears to have suffered some injury, but it is nevertheless an undoubted original, and has much of the sweetness, grace and truth to nature that characterise the best of the author's works. Under the head of this picture we find in the Catalogue the following remarks.

'Bartolomeo Esteban Murillo was born in 1613, and died in 1685. He showed a very early inclination for painting, and received instruction from his uncle, Juan del Castello, and afterwards from Velasquez. He was employed by the King of Spain to paint several historical pictures, but his favorite subjects were beggar boys in various exercises and amusements. His coloring is mellow, his tints clear and skilfully opposed by proper shadows. His pictures are in great esteem throughout Europe, but few of them have reached this country. This picture has been much injured. Its great merit is, however, apparent, and has been appreciated by the community.'

This brief notice, though in the main correct, and perhaps as complete as it could be made consistently with the limits of a Catalogue, hardly does justice to the extraordinary merit of the great artist in question. Although his works are, as is remarked in the Catalogue, in great esteem throughout Europe, they are nevertheless not so generally known and valued even there as they would be were they more favorably situated for the observation of artists and travellers of taste. They were all painted in Spain. Very few of them have found their way into the other parts of Europe; and as Spain has been for a century past entirely out of the regular line of travel, whether for business or pleasure, the treasures of art, which are contained in the Spanish collections, have been sequestered, as it were, from public view. Hence the names of Murillo, and his master Velasquez, are much less familiar to the European public than those of many Italian and Flemish artists of inferior merit. Several fine works were, however, carried to Paris by the effect of the late political movements, and the engravings that have recently been published at Madrid of the paintings in the museum have made them better known abroad than they were formerly. We were informed by Wilkie that the Spanish painters Murillo and Velasquez were very inadequately appreciated in England, and that he had himself no idea of the extent and value of their productions until he

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met at Rome with the collections of engravings to which we have just alluded, and which afforded him so much satisfaction that he immediately determined on a visit to Spain for the express purpose of seeing the originals. The high expectations he had formed of them were entirely equalled, if not surpassed, and his correspondence on the subject with the late President of the Academy will have contributed much to rectify the opinions of the British artists on this subject, and to give a new idea of the merit and richness of the Spanish school.

From the tenor of the above extract it would be natural to conclude that low life was the favorite walk of Murillo, that he had deviated into the historical department in compliance with the wishes of the king, but that his success in this branch had been less remarkable than in the other. This idea of the nature of his talent is, however, incorrect. Like all the artists of his time, he painted principally for churches and convents, and of course on scriptural subjects, from which every allusion to low life is necessarily excluded. His acknowledged master-piece is a large picture in one of the convents at Seville, on the subject of *Moses striking the Rock.* This grand work has been thought by many competent judges to bear away the palm from the *Transfiguration*, and is admitted by all to be one of the noblest efforts of genius in existence. His taste was, however, undoubtedly for grace and sweetness rather than sublimity, and he accordingly excelled in his Holy Families—a favorite subject with him, as with all the painters of the day. There is one in particular in the museum at Madrid of pre-eminent beauty, in which the Virgin is represented as in a sort of extacy, with one foot resting on the crescent moon,

'With eyes upraised, as one inspired,'

robed in a flowing blue and white drapery and surrounded by a glory that fills the back ground of the picture. For truth of drawing, spirit and felicity of composition, and a peculiar brilliancy and charm of coloring, the manner of Murillo in this and his other best pieces could not well be surpassed. His figures have been thought to want in some degree the high intellectual expression that distinguishes those of the great masters of the Italian school, and which is no doubt the loftiest attainment to which genius in the art can aspire. Had he combined this with his other excellences he would

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probably have excelled most other modern painters. The faces of his Virgins are said to have been copied from that of his daughter. They have a charming simplicity and sweetness of expression, inclining, however, to childish weakness rather than to the poetical elevation, which must naturally be supposed to form the other ingredient in the character. Murillo was uncommonly happy in his delineations of boys, but they were by no means always placed, as might perhaps be imagined from the above extract, in situations connected with common life. His two separate pictures of the *Infant Saviour* and the *Infant Baptist*, in the museum at Madrid, are among the most exquisite productions of his pencil, and surpass perhaps any other work on a similar subject, unless we except the *Young Samuel* of Sir Joshua Reynolds, which seems to realise the idea of absolute perfection. But though the talent of Murillo was not confined to the delineation of common life, it is nevertheless true that he greatly excelled in this as well as in the higher walks of his art. *The Pet Kitten* of the Exhibition is a specimen of his manner in this line, but, if an original, is not one of his best pieces. In a large picture, in the Academy of the Fine Arts at Madrid, representing the exercise by Isabella, Queen of Castile, of the faculty formerly supposed to be inherent in all royal personages, of curing by the touch certain cutaneous diseases, the artist has combined, injudiciously perhaps, the expressions peculiar respectively to high and vulgar life. The Queen, surrounded by her court, and with the air of dignified solemnity and deep interest, which would naturally accompany the use of her miraculous gift, is washing the head of one little urchin, while another, who stands by the side of the basin waiting for his turn, affords himself a temporary relief by scratching with both hands, and displays an irresistibly comic expression of countenance. This piece, though, as we have intimated above, defective in its plan, is in point of execution one of the most successful and perfect of Murillo's works.

It is remarked in the Catalogue that but few of the works of this artist have reached our country. There are some in the collection of the Academy of the Arts at New York; but the best on this side of the Atlantic is probably the *Roman Charity*, in the collection of the Academy of the Arts at Philadelphia. This was purchased by the Academy of our countryman Mr. Rich, formerly our Consul at Valencia. While in his

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possession it had suffered some alteration from the effects of the rather exaggerated delicacy of a contemporary Spanish artist of considerable merit, named Lopez, now chief painter to the King of Spain. In the picture, as it came from the hands of the artist, and into those of Mr. Rich, the neck and breast of the female figure, who, agreeably to the well-known anecdote, is represented nursing her father in prison, were discovered. There seems to be little in such an exhibition at which the purest mind need to be alarmed. The scrupulous Spaniard, however, took it amiss, and resorted to a very summary process for abating the nuisance. He had prevailed on Mr. Rich to lend him the picture for the purpose of studying it at home, and while he had it in his possession, without consulting the owner, very kindly supplied the fair Roman with a handkerchief from his own pallet. In plain English, he coolly set himself to work and painted over the bust of the female figure with a sort of shawl or mantle, apparently without reflecting whether something were not due to his neighbor's right of property as well as to what he doubtless considered a just delicacy. We have not had much opportunity to examine this picture in detail, but have been informed by Mr. Rich that it is in the best manner of the artist. Its actual value is perhaps a little diminished by the injudicious *reform* to which we have alluded; but it will probably attract hereafter more rather than less attention from having been the subject of so curious an anecdote.

Velasquez, the master of Murillo, is less known beyond the limits of his own country, than his great pupil, but is generally regarded by the Spaniards, and by such other persons as have had the opportunity to appreciate his merit, as being, in some respects at least, the superior artist. For truth to nature in drawing and coloring, his works may be considered as approaching the point of actual perfection, and they would form the best possible study for such proficients in the art as were in danger of being seduced by the false brilliancy of the modern French school. We must confess, however, that in our judgment Velasquez errs a little on the other side, and that his coloring, though admirably fresh, distinct and true, is rather cold. In the Catalogue of the Paintings in the museum at Madrid the manner of this great artist is described in the following terms.

'Velasquez possessed a genius for painting of the very first

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order. He united a brilliant imagination and a singularly correct judgment with great industry. The beauty and felicity of his drawing are admirable; and his coloring, while it is perfectly true to nature, has a peculiarly seductive grace. What harmony and correctness in his landscapes! The illusion is there so perfect that we can hardly realise, at a little distance, that we are viewing a picture and not the thing itself. No artist ever understood better the effect of light and that aerial perspective which regulates the size and hue of objects according to their distance. In short, he had improved his strong natural talent for the art by the most careful and judicious course of study and practised it with complete success in all its parts. It may be said with safety, that there was more truth in his coloring and more firmness in his drawing than in those of even Titian. The means employed are seen more distinctly on a near examination without the least diminution of the general effect at the proper distance.'

The museum at Madrid is rich in the works of this great artist, which consist principally of historical pieces and portraits. Among the latter may be noticed particularly those of Philip IV. and his Queen Doña Mariana of Austria, under whom he flourished, and those of their son the Infante Don Baltazar Carlos, and of the celebrated Count-Duke Olivares—the two last on horseback. A portrait of one of the Princesses of the royal family, daughter of Philip IV., is even more remarkable, and is thus described in the Catalogue.

'This is a portrait of the Infanta Doña Margarita Maria of Austria, daughter of Philip IV., receiving a glass of water from one of her ladies. In the list of the spectators is the artist himself with his pallet in his hand taking the portrait of the Princess, and on the right are the two dwarfs Nicolas Pertusano and Maria Barbola, who are endeavoring to amuse her and are playing with a favorite dog. This picture is admirable for the correct drawing and ingenious composition, but especially for the wonderful effect of light. The apartment seems to be filled with a kind of vapor, which surrounds and removes all the objects that require to be represented as more distant. It is a singular proof of the talent of Velasquez, that he succeeded in placing in the middle of the piece an open door, admitting a light so strong that it brightens the door, the staircase behind it, and the person who is going out,—the whole executed with perfect truth and yet without injuring the general

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effect. This picture is a sort of miracle in the way of perspective, both aerial and linear. It was called by Giordano the *Painter's Bible*, (*La Teologia de la Pintura.*)'

Among the history pieces of Velasquez in the same collection may be mentioned the *Surrender of Breda* to the Marquesses of Spinola and Leganes in presence of the armies of Spain and the Netherlands. 'This,' says the Catalogue, 'is one of the capital pieces of this artist. The plan is well conceived, the composition skilful, the drawing correct, the expression spirited and noble, the coloring rich and true, and at the same time so bold, that we may safely say that Velasquez alone could have ventured, as is done here, to introduce a mass of strong light between the Spanish army and the escort of the Flemish general. We admire the art with which he groups together the figures thus separated by the friendly attitude of the Spanish General throwing his arm over the shoulder of the Governor of the fort. The horse of Spinola is painted with extraordinary truth. In the back ground is a vast plain extending to the horizon. It is a low, moist country, corresponding with the real character of the scene of the action, and covered with burning castles and villages, which show too well the fatal consequences of war.'

A fancy-piece by the same artist, representing the interior of a carpet-manufactory, and commonly called *The Spinners*, (*Las Hilanderas*,) is considered one of his happiest efforts, and is thus described.

'In the back ground are some ladies looking at carpets. On the front of the picture is a woman spinning and talking with another, who is drawing a scarlet curtain. At a little distance is a girl carding wool. On the right of the spectators is a young woman winding yarn, whose features are not visible, although we may be sure that they are handsome from the beauty of her shoulder, and another, who has in her hand a sort of basket. This picture,' says the commentator, 'was painted off-hand, with a bold, free, and playful pencil. The skill with which the artist has harmonised the different lights, which he has introduced into it, is truly marvellous.'

We have been led to make these brief remarks on the general manner of Murillo and Velasquez for the purpose of turning the attention of the public to the merit of two great artists, who are not sufficiently known beyond the limits of their native land, and in the hope that opportunities may occur for

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acquiring a greater number of their works in this country. We must now proceed, a little more rapidly than we have thus far done, in our survey of the paintings exhibited at the Athenæum Gallery.

Of the other original pieces of the old masters, may be mentioned particularly *The Laughing Boy*, by Gerardo delle Notti, which, as a mere specimen of effect in the disposition of light and shade, was undoubtedly by far the most powerful picture in the Exhibition. The artist, whose real name was Gerard Honthorst, obtained the one above quoted, by which he is usually known and which means literally *Gerard of the Nights*, or, according to the English idiom, *Gerard Night-Piece*, from his extraordinary talent for producing the effect of lamp-light. The two large paintings, representing respectively the fish of the Bay of Tarentum and of the Bay of Naples, from the collection of Joseph Bonaparte, though the subjects are not attractive, nevertheless afforded great pleasure from the spirit and truth to nature, which distinguish the execution. The *Jacob wrestling with the Angel*, by Domenichino, belonging to Mrs. Meade, is a valuable production of one of the most distinguished Italian masters. Domenichino, or *little Dominic*, as he has been affectionately denominated by the *dilettanti* of his country, was less prolific than some of his great predecessors and contemporaries. The extreme correctness and high finish of his pictures account in part for the comparative slowness with which he appears to have wrought. A *Seaport*, by Claude Lorraine, a *View of the Lake of Thrasymene*, by Vernet, and several landscapes with figures, by Salvator Rosa, furnished interesting specimens of the manner of their respective authors. The Vernet, in particular, was a very beautiful landscape. We may also mention as among the most remarkable old pictures, the *Joseph and his Brethren*, by an unknown master, the *St. Francis*, by Tintoretto, and the *St. Anthony*, by Luca Giordano, all large pieces, from the collection of Mrs. Meade; the *Lady drinking*, by Terbourg; the *Dying Seneca*, by Vandyck; the *Views of Venice*, by Canaletti, and the head of a Madonna, by Sasso-Ferrato. These, with a number of others, to which we cannot now advert, are well entitled to a more detailed notice; but the space we have already occupied reminds us that we must leave this branch of the subject and proceed to make some remarks on a few very highly finished copies of originals in Europe, which formed a part of the Exhibition.

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The most interesting of these was a copy of the celebrated *Descent from the Cross* of Rubens, by F. de Brackelaer, a Flemish artist of great merit. It has recently been imported from Europe by Colonel Perkins, the distinguished President of the Athenæum, whose continued exertions and liberal contributions for the promotion of learning and the arts have justly entitled him to the gratitude of the community. The work was executed under very favorable circumstances, the original having been placed in the hands of the artist, on its return from Paris, for the purpose of being prepared for its new position in the Cathedral at Antwerp. The size of the copy is greatly reduced from that of the original, but it gives in other respects a most exact and faithful representation of it, and is itself a very superior picture. It includes the two companion-pieces, which were placed on the right and left of the *Descent from the Cross*, when it occupied its original place as the altar-piece of the Cathedral, and which represent respectively the *Salutation of Mary and Elizabeth* and *Simeon bearing Christ in his arms*.

The *Descent from the Cross* of Rubens is, as is well known to every lover of the art, the master-piece and pride of the Flemish school, as the *Transfiguration* of Raphael is of the Italian, and the *Moses striking the Rock*, by Murillo, of the Spanish. In this noble production the characteristic beauties of the great author, and of the school which he adorned, are exhibited in their highest perfection, and with the least mixture of the defects by which they were accompanied. The richness and beauty of the coloring, the skill displayed in the grouping of the figures, and the truth, with which they exhibit the passions and affections belonging to their respective characters, are really admirable, and we scarcely notice in the midst of so many excellences the slight defects in taste—*vestigia ruris*—that linger even here round the pencil of the illustrious Fleming and depress his work a little below the complete perfection of the unrivalled Italians. It is remarkable that Sir Joshua Reynolds, who appears from his Lectures to have been hardly satisfied, at least on a first inspection, with the manner of Raphael, bestows the most unqualified commendation on this production of Rubens.

'The Christ'—he remarks, as quoted in the Catalogue—'is one of the finest figures that were ever invented. It is most correctly drawn, and in an attitude of the utmost difficulty to exe-

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cute. The hanging of the head on the shoulder, and the falling of the body on one side give such an appearance of the heaviness of death, that nothing can exceed it.'

On the companion-piece representing *Simeon bearing Christ in his Arms*, Sir Joshua remarks that it is 'admirable indeed; the head of the priest more especially, which nothing can exceed; the expression, drawing, coloring, are beyond all description, and as fresh as if the piece were just painted.'

This superb picture was transferred to Paris by the French when they took possession of the Netherlands, and remained for several years in the Gallery of the Louvre, where we had the pleasure of seeing it in 1812. It appeared to advantage in immediate comparison with the finest works of the greatest painters of all countries, among which it was then placed, and was regarded by all as one of the two or three first, by some as the very first piece in the collection. It approaches in fact more nearly to perfection in its way, than perhaps any other picture that could be named, and if it be inferior to some, it is only because the artist habitually exhibits in his most successful efforts somewhat less purity of taste and intellectual, or, as it is often called, *ideal* expression, than would be required for the attainment of the highest degree of excellence. In many of his pieces his deficiency in these respects is very remarkable, and forms a singular contrast with his extraordinary success in others. It is particularly conspicuous in his female figures, which were evidently copied directly from nature in a climate where the sex is distinguished for freshness and beauty of complexion, rather than delicate proportions or graceful symmetry of form. It is wonderful that Rubens who travelled much, and visited all parts of Europe, did not learn from his acquaintance with the fair of other regions, to correct his original notions of female beauty. His imagination appears to have dwelled with unabated fondness to the last upon the solid charms of his countrywomen which were probably endeared to him by the recollections of his youthful loves. His *Three Graces* in the museum at Madrid exhibit under a transparent delicacy of complexion, a largeness of bone and firmness of muscle, that would do honor to the champion of England. They form a strange contrast with the slender and symmetrical brunettes of Titian, that figure in their neighborhood. Complete perfection is, however, not to be expected in any human production; and notwithstanding some very obvious faults, the works of Rubens

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will always be viewed as among the master-pieces of the art. For brilliancy and richness of coloring and fertility of invention, they perhaps excel all others, and if they want the ideal expression of the Italians, they are animated by an admirable spirit and vivacity, which are the best substitutes that could be found for that still superior quality. As a series of paintings on the same subject we are acquainted with none in the whole compass of the art to be compared with the twelve on the *Marriage of Catherine de' Medicis*, that are now exhibited in the Gallery of the Louvre. These splendid pieces compose a sort of grand epic poem, not inferior in fire, nature, variety of character, wide range of supernatural machinery, and harmonious disposition of the various parts of a great and crowded action, to the immortal master-piece of heroic song. If one of the works of Velasquez alluded to above has been called the *Painter's Bible*, this series might be described with equal justice as an *Iliad on Canvass;* and the analogy is not the less striking because the artist conceived and executed his plan without the slightest reminiscence of Homer, nor because the action represented is in every particular wholly different from the celebrated wars of Troy. In works of art direct imitation never produces a real resemblance. This can only take place when minds of equal power and kindred genius, working perhaps, as in this case, in different lines, but under the influence of the same inspiration, and with the materials supplied by the same common nature, bring out under great varieties of form, works that are distinguished by the same general characteristics and produce the same effects on the imagination and the heart. There is no resemblance—for example—between the charming Allegro and Penseroso of Milton, and the Pacifico and Bellicoso of Mason, or twenty other parallels in the same form, that have been written in imitation of them; but we can easily find one in the delightful painting where the Muses of Tragedy and Comedy—each with her appropriate expression and costume—are struggling for the exclusive possession of their common favorite Garrick, although the idea of Milton and his poem probably never once occurred to the mind of Sir Joshua Reynolds while he was planning and executing the work.

The superiority of the works of Rubens is not more extraordinary than the facility with which he appears to have produced them. The collections of Europe are crowded with his paintings, frequently of large size, and when we consider the length

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of time which is employed by many artists of great merit upon a single piece, we are disposed to wonder that he was able to execute so much. It is not impossible that in the latter part of his life he availed himself to a considerable extent of the labor of assistants and pupils; but it is well known that he wrought with great facility and threw off many of his admirable works at a single heat. The same was the case with some of the other great masters who lived in the best days of the art, and it seems to be chiefly at a later and less brilliant period that we find their successors adopting a different method, and substituting the slow results of patient and reiterated toil for the first glowing effusions of genius. There is no doubt an aptitude in different minds to proceed by different methods, and a man of merit can commonly work better in the way to which he feels himself naturally disposed than in any other; but it may be doubted whether much is gained in painting, poetry, or any other art, by the long delay and repeated revision by which some persons are accustomed to ripen their productions. An artist who has cultivated his taste by the usual methods, and reached the maturity of his judgment, has acquired all the talent he will ever possess, and the more freely and fearlessly he exercises it, the better in general will be the product. We mean not of course to recommend an inconsiderate precipitancy or to exclude the process of revision and correction within its proper limits; we only mean to say that a work which a man of genius, whether poet, painter, or orator, throws off in a happy moment, and at the height of his talent, is substantially as good when it first comes from his mind, as the nature of his subject, and the extent of his powers will allow him to make it. By reviewing it in a cooler moment, he may remove blemishes—improve the disposition of details—introduce additions of minor importance, and thus give the whole a finished air, which will considerably augment the general effect —but he cannot possibly by any revision or correction change the substance of it for the better. To change the substance of a work is, in other words, to produce a new one on the same subject, and this new one must, in general, in the case supposed, be inferior to the former, because it is produced under circumstances much less favorable to excellence. The want of facility which is experienced by some artists might, we fear, in many cases be more correctly described as a want of the moral courage and generous self-confidence, which are as ne-

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cessary to success in art as in every other department of action. When we find a poet who was capable at twenty years of age of writing the *Pleasures of Hope*—the most elegant of all juvenile productions—bringing out nothing else in the course of a long life devoted to poetry, but a few short fragments, we see at once, that for fear of hazarding the reputation he had acquired, he has not exhibited the maturity of his talent, and that his works give us no indication of what he might have done if he had not been prevented by indolence or constitutional timidity from doing his best. Campbell at twenty was a much better poet than Scott at thirty—but the latter by manfully doing as well as he could without fear of criticism, gradually improved his powers by exercise, and in the end has completely overshadowed the other, though possessing a talent originally much superior to his own. The moral is the same with the common proverb—that *faint heart never won fair lady*—and that a man will never get the credit of doing what he has too little confidence in himself to undertake. Trust yourself, says Goethe, and others will trust you.

Wenn du deiner selbst vertrau'st
Vertrauen dir die andere Seele.

Our readers will perhaps think that there is little danger of an error on the score of excessive diffidence in a community where most of the citizens are ready enough to push their pretensions of all kinds, as far as they ought in reason to be carried, but we have in our view some cases connected with the subject of this article, in which the hints we have given might, we think, be turned to account. It is time, however, to resume our survey of the Gallery.

The copies, by Meyer of a large and beautiful landscape by Ruisdael with figures by Berghem, and by our countryman Fisher of the portraits of Rembrandt and Vandyck by themselves now in the Gallery of the Louvre, were highly interesting, but we have only room to notice that of the *Shepherdess Madonna* of Raphael, by Subba. This picture represents the Virgin at full length, in a standing position with a crook in her hand; the two infants Jesus and John Baptist standing beside her with their faces turned upwards to hers; the scene an open country, with hills and woods in the back ground. The artist appears to have repeated this subject several times. We have ourselves seen two originals at Paris, and it is stated in

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the Catalogue that there is one at Naples. Of the two which we have seen, one is in the Gallery of the Louvre, and the other in the possession of our countryman, Samuel Williams, Esq. formerly our Consul at London, and now temporarily resident in Paris. The latter has been supposed by some of the British *connoisseurs* to be a copy by another artist, and for that reason commanded a comparatively low price at a public sale a few years ago. Its genuineness is, however, perfectly apparent on its face to all who are acquainted with the style of the great author, and its history is so well known that there can be no reasonable doubt upon the subject. It is traced back with certainty for about two centuries, to the time of Cardinal Mazarin, who employed it as the altar-piece of his private oratory; and in his various capacities of Italian, Prince of the Church, and Viceroy over the Queen of France, was not likely to be cheated in a painting by Raphael. It remained in the possession of his representatives till the commencement of the French revolution, when the property of the family was confiscated, and the paintings sold at auction. The one in question was purchased by Colonel Trumbull, who happened to be at Paris at the time, and who, after keeping it several years, transferred it to Mr. Williams. At the sale of Mr. Williams's effects, it was offered with the rest, but brought so low a price that it was bought in for the owner. From the peculiar circumstances under which it is now placed, it might probably be obtained for a sum considerably below its real value, and would form a most important and interesting addition to any of our collections. The drawing and coloring are in the best manner of the author, and although the principal figure is rather deficient in expression, the picture has always been regarded as a capital work. So far as we are informed, there is no original painting by Raphael in this country, and we should be highly gratified if it could be found practicable to improve the present opportunity for placing a very fine one in the Gallery of the Athenæum.

We come now to that part of the Exhibition which consisted of the works of our native artists, and we regret that their number and importance were not such as to authorise us to devote to the examination of them a larger portion of the present article. The splendid *Sortie from Gibraltar* by Trumbull, which belongs to the Athenæum, still retains its place, but it is too well known to the public to require or admit of a de-

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tailed notice. There were also, beside the *Mother and Child*, which is the property of the institution, two very beautiful landscapes by Allston, belonging respectively to Mr. Weeks of New York, and Mr. S. A. Eliot of this city, a number of valuable works from the pencils of Sully, Doughty, Fisher, and Salmon, and several interesting portraits, particularly that of the Chief Justice of the United States by Harding. Without intending to undervalue the merit or importance of these productions, we cannot but remark, that they give a very imperfect notion of the richness and abundance of the recent labors of our native artists. Few countries have in fact done more within the last half-century in the way of painting than this. We know of none that can produce a more respectable list of painters who have flourished within that period, than is composed by the names of West, Copley, Trumbull, Allston, Newton, Leslie, Stuart, and Sully, to which might be added those of many other younger aspirants of undoubted merit. Several of these distinguished artists have been and still are the principal ornaments of the British school, which, for the time in question, belongs at least as much to the United States as to the mother-country. England has in fact only three names of equal pretensions and of native origin to add to the above list—we mean those of Reynolds, Wilkie, and Lawrence. The first of these, had he devoted himself exclusively to the higher walks of his art, would have probably placed himself at the head of modern painters, by which we mean those of the last century—and even as it is—although he gave up his pencil almost wholly to portraits—he is perhaps very fairly entitled to that high eminence. Wilkie and Lawrence are excellent, each in his line—which is not, however, in either case the highest—but the combined merit of the three, with that of their inferior fellow-laborers—does not authorise the mother-country to claim more than an equal share of the glory of the common school. The style of painting in France during the same period has been decidedly vicious, and although it has obtained a temporary popularity in that country is not approved by competent judges from any other. In the rest of Europe there has been little or no activity in this branch of art; so that the United States—as we remarked above—have done at least as much for painting during the last half-century, as any other country. We hope that efforts will be made to procure for the future Exhibitions a larger number of the choice products of

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the native pencil. In the meantime without confining ourselves to those which were brought forward on this occasion, we propose to conclude the article with a few general remarks upon the style and works of some of the eminent American artists, whose names are recapitulated above.

That of West is commonly and in some respects deservedly placed at the head of the list. The length of his career—his conspicuous position at the head of the British Academy and the indefatigable perseverance with which he pursued his labors up to the very close of his protracted life—all these circumstances placed him in full relief before the public, and perhaps raised his reputation a little higher than it will be maintained by the impartial judgment of posterity. Perceiving or supposing that his merit was exaggerated, a certain number of persons were induced, as always happens in similar cases by a sort of reaction, to depreciate the value of his works, and even to deny altogether his pretensions to excellence. Without speaking of Peter Pindar, who attacked him merely because he was patronised by the King, we may find the feeling to which we allude exhibited in a quarter where we had a right to look for good taste and political impartiality. Lord Byron, in one of his poems describes our illustrious countryman as

> ——' the dotard West,
> Europe's worst dauber and poor England's best.'

But even here the noble bard, however opposite may have been his intention, has borne a sort of involuntary testimony to the high deserts of the painter. The British school, which in his wayward humor he represents as the worst in Europe, was undoubtedly at that time and still is the best, and by putting West at the head of it he rendered him in fact all the justice which his warmest friends could possibly have claimed for him. His real merit was very considerable, although he may not have risen precisely to the level of the greatest masters of other times. It was sufficiently evinced by the great popularity and success of his last and best pieces the *Christ Rejected*, and the grand composition of *Death on the Pale Horse*. We had the pleasure of seeing these noble paintings when they were first brought out at London, and witnessed the enthusiasm which they excited among the lovers of the arts and the public at large. The sum of ten thousand pounds was offered for the latter work—a higher price probably than

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was ever commanded by any other picture. As there was nothing meretricious in the style of West, and as the public of a city like London is not often very widely mistaken in matters wholly unconnected with any accidental or temporary interest, it is impossible to account for this extraordinary vogue without allowing to the artist a talent of a very high order. His works exhibit in reality almost all the qualities that designate a first-rate painting. His walk lay in the highest department of the art. His subjects were always of a poetical cast, and he treated them all in a large, free and generous spirit; and while he possessed the principal requisites of a great painter his manner was almost wholly free from faults. He had in particular the great merit of avoiding the unnatural style of coloring which prevailed in the neighboring kingdom and seemed likely at one time to corrupt the taste of the rest of Europe. His excellent moral character contributed much to his talent and still more to his fortune. It kept him steady to his profession during a period of violent political convulsions, which swept away from their natural occupation almost all the high and stirring spirits. It recommended him to the favor of the King, and through that to the Presidency of the Academy, and it preserved his health and capacity for constant employment to the last moment of a very long life. He enjoyed the rare happiness of realising in his lifetime his full deserts on the score of reputation—perhaps something more—and of laboring with undiminished activity and a constant increase of fame beyond the ordinary term of human existence. We had the satisfaction of seeing him frequently in his last days, and have seldom known a more striking example of a serene and happy old age. He was then at nearly eighty a healthy, handsome man, busily occupied upon his last and greatest works, and enjoying the vogue which they successively obtained on their first exhibition. The natural simplicity and modesty of his manner were mingled with a slight air of self-importance and conscious satisfaction with his recent success, which appeared rather graceful than otherwise in one so much respected and so far advanced in years. The freshness and vigor of his mind were truly remarkable. He was still alive to every means of improving himself, and when the Athenian marbles were received in England, he addressed a printed letter to Lord Elgin, in which he spoke of this event as forming a sort of epoch in his life, and anticipated the great advantage which he should derive from the study of these ad-

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mirable remains of antiquity in the further prosecution of his labors, which, however, were very soon after brought to a close.

We have said above that the manner of West was almost wholly free from faults. His conceptions are noble, his drawing correct, his coloring true, and his composition skilful and spirited. If we miss any thing in his paintings it is, perhaps, the secret indescribable charm of coloring, which, like the curious felicity of language in some writers, seems to be a sort of natural 'grace, beyond the reach of art,' but affording, at the same time, a higher delight than any of those beauties, which can be more distinctly analysed and defined. Of this Sir Joshua Reynolds possessed a larger share than West, and will probably on that account be always ranked above him in the general scale of merit.

The paintings of West, which remained in his possession at his death, were offered for sale soon after, and we have anxiously desired, that the whole or a portion of them should have taken the direction of this country. They would have formed a most interesting and valuable addition to our collections, and would then have reached what may fairly be considered their natural destination, the birth-place and original home of their author. We are not exactly informed what disposition has been made of them, and venture to hope that the expectation we have expressed may still, in part at least, be realized.

The general reputation of Trumbull is hardly equal to that of West, although the *Sortie from Gibraltar* is perhaps superior in effect to any single production of the latter artist. This noble picture may justly be ranked with the finest productions of the pencil, and would forever secure to its author, had he done nothing else, a rank with the greatest masters of the art. If his success has been on the whole inferior to that of his illustrious contemporary, it is probably because his devotion to his profession has not been so exclusive. The important military and political occupations, in which he was engaged during a considerable portion of the most active part of his life, diverted his attention for the time from painting, and when he afterwards resumed the pencil he seemed to have lost in some degree the vigor and freshness of his youthful talent. Hence his reputation has not continued to increase with his years, and his last works have not, like those of West, been regarded as his best. The four great paintings, on subjects connected

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with the revolutionary war, which he executed for Congress, have, on the whole, hardly satisfied the public expectation, and for that reason have perhaps been depreciated below their real worth. They are all valuable pieces, and the *Declaration of Independence*, which we look upon as the best of the series, is one of a very high order. They derive a great additional interest from exhibiting portraits, as far as they could be obtained, of the Signers of the Declaration, and of the other patriots and warriors, who took a part in the memorable action of the Revolution. We incline to believe that these paintings, should the liberality of Congress allow the appropriation necessary for keeping them in existence, will gradually gain upon the public opinion, both as works of art and as historical memorials, and be viewed by the next generation with more interest than they are by the present one.

Of our living native artists, Mr. Allston is the one, to whose future productions the country looks with reason for the most brilliant exhibitions of talent, and the most valuable accessions to our public and private collections. Few painters have ever possessed at his age a higher reputation, or one acquired by nobler means; and from his character and habits there is room to suppose that his fame will continue to increase, like that of West, to the last period of his labors. Inspired by that exclusive and passionate love for his profession, which is the sure characteristic of a real genius for it, and by a lofty and generous disinterestedness, which has prevented him from consecrating his pencil to its lower and more lucrative departments, he has, under some discouragements, steadily confined himself to historical, scriptural and poetical subjects, and has formed his manner upon the highest standard of excellence. His conceptions are uniformly happy, and, when the subject requires it, sublime; his taste and skill in the mechanical details of his art complete; and he knows how to give his works the secret charm to which we alluded before, and which adds the last finish to every other beauty. If there be any thing to complain of in him, it is that he is not satisfied himself with the degree of merit, which would satisfy every one else, and employs in correcting, maturing and repainting a single piece, not always perhaps with any real accession of effect, the time and labor which would have been sufficient for completing a dozen. This extreme fastidiousness may have been at an earlier period of life a virtue, and is probably one of the qualities, which

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have enabled the artist to realize the high idea of excellence, which originally warmed his young fancy. But, if we might venture to express an opinion on the subject, we should say that the time has now arrived when he might throw it off with advantage, and allow himself a greater rapidity of execution. His manner is formed. He possesses his talent, whatever it is, and, as we remarked above, when we treated the same question in general terms, the more freely and fearlessly he exercises it, the more natural and spirited, and, on the whole, the better will be the product. We trust that he will not permit another year to pass over without putting the last hand to the grand heroic composition, upon which he has been employed so many, and that this will be followed by a series of others of equal merit and of a rather more rapid growth. By this change in his manner of working we believe that he would gain in ease and spirit without sacrificing any real beauty, and would labor, on the whole, with infinitely more satisfaction and profit to himself and the public than he does now. We offer these remarks, however, with all the deference that is due from mere *amateurs* to an artist of consummate genius, who is after all the only true judge of effect in his art and of the best means of producing it.

The two landscapes by Mr. Allston, which were exhibited this year, were both very beautiful in different ways. The one belonging to Mr. Eliot is, we think, in the happiest manner. It has the warmth and softness of coloring of Claude, and is, as far as we are able to judge, in no way inferior to the fine productions of that artist. The *Mother and Child,* which belongs to the institution, is a highly interesting little piece, upon the merit of which there has been, however, some difference of opinion. If we may venture to offer our sentiments, we should say that the piece is beautifully finished and quite perfect in every thing that belongs to the mechanical details of the art. The coloring of the body of the infant in particular is as true to nature as it could possibly be made, and is fully equal to any that we have seen from the pencil of Titian. The artist does not seem to have been so fortunate in the drawing of the infant, who has too little fulness, as well as too much meaning in his face, for so young a child. The expression of the countenance of the mother is rather uncertain, and her face is thrown into a sort of mysterious shade, for which the spectator is not very well able to account. The piece, however,

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taken as a whole, is a first-rate work, and forms one of the choicest ornaments of the Athenæum Gallery.

We regret that a larger number of the paintings of Mr. Allston were not exhibited on this occasion. We should gladly have seen in the Gallery the *Valentine* of Mr. Ticknor, the *Miriam* of Mr. Sears, the *Jeremiah* of Miss Gibbs, and the other fine productions of the same artist, belonging to other gentlemen in this country. These paintings, while they are kept in the houses of their owners, are seen by a very limited number of persons, and it is much to be desired, as well for the improvement of the public taste, as for the mere gratification of the curious, that they should be displayed from time to time in a place where they can be freely examined at leisure by the whole community. The advantage and satisfaction, which the public would derive from such an exhibition, would afford, we are sure, an ample compensation to the liberal proprietors for any trifling sacrifice of their own convenience, that might be required by such an arrangement.

We had intended to offer a few remarks on the style and works of our distinguished countrymen, Newton and Leslie, and also on the landscapes of Doughty, Fisher and Salmon, and some of the portraits that were exhibited on this occasion; but we have already passed the just limits of an article, and must reserve them for a future one. The most remarkable portrait was undoubtedly that of Chief-Justice Marshall, painted by Harding for the Athenæum. It has been pronounced by those, who are most familiar with the appearance of the illustrious original, to be a striking likeness, and it certainly does great credit to the painter, who must, however, make some further advances in his art before he can aspire to rival the mature fame of Stuart. The landscapes of Fisher as well as his copies from Rembrandt and Vandyck were very beautiful. Those of Doughty were hardly less so, and we regret that the sale of them at the present moment of depression in business has not afforded the artist the compensation for his labor, which he had a right to expect from the liberality and good taste of the citizens of this metropolis. The works of Salmon have a more decidedly characteristic manner than those of Doughty or Fisher, and are, we believe, in general greater favorites with the public. The three artists are all capable of rising by a proper course of study and practice to a high degree of excellence, and we trust that they will receive from their countrymen that

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encouragement, which is absolutely necessary to enable them to proceed in their labors with spirit and success. A copy, by Sully, of a female head by Guido, and of a *Gipsy* from a French artist, attracted some attention. The *Bridal Eve* of Miss Sully, if not in the purest style of coloring, was curious as a specimen of the French manner, in itself essentially vicious. The most valuable effort of female genius exhibited on this occasion was a landscape by Miss Scollay.

It is time, however, to close these remarks. Before we quit the Gallery we cannot refrain from expressing the pleasure with which we have viewed the busts in marble of John Quincy Adams and Mr. Quincy by Greenough, who is also, we are informed, the inventor of the plan of the Bunker-Hill Monument. The great merit of this design furnishes itself a strong presumption in favor of the taste and talent of the author. He is now, we believe, pursuing his studies at Florence, and we cannot but form very high expectations from the future progress of a career that opens with so fine a promise.

ART. IV.—*Lectures on the Sacred Poetry of the Hebrews.* By ROBERT LOWTH, D. D. Lord Bishop of London. Translated from the original Latin, by G. GREGORY, F. A. S. A new edition, with Notes, by CALVIN E. STOWE, A. M. Andover. 1829.

The time has gone by, in which an editor would have thought it necessary to prefix an apology for presenting to the public an edition of this master-piece of Lowth's genius—his Lectures on the Hebrew Poetry. In regard to such a book men will not now ask, as seems actually to have been done, even in Germany, when Michaelis first presented this work to his countrymen,—*cui bono?* They begin to feel and enjoy, with something like a true relish, the indescribable beauty of the sacred poets. This exquisite fountain, so long hidden from the eye, and unvisited, even by the footsteps of wanderers, has at length been unsealed; the sere leaves and the accumulated mosses have been removed from its sparkling purity; the world has tasted of its freshness, and it can never again be restrained in its free flow. In an intellectual as well as a moral sense, it

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makes the wilderness and the solitary place be glad, and the desert blossom as the rose. It has blessed the individual minds, who have drunk deep of its inspiration, with a vividness of fancy, a grandeur of imagination, an original simplicity and purity of thought, a power of sublime expression and imagery, and a reverence for all that is wise and good, which might in vain have been sought from the study of the literature of all other nations. The genius of Milton was early baptized in this fountain. It was from

> ——'Siloa's brook, that flowed
> Fast by the oracle of God,'

that he invoked the 'heavenly muse' to aid him in his 'adventurous song.' The tones of the Hebrew language came to his ear with a near and familiar accent, like that of his maternal dialect. He had fully mastered its treasures; and *Paradise Lost* exhibits on every page the impress of a mind most thoroughly imbued with the spirit of the sacred poets.

Setting aside the circumstance of their divine origin and consequent moral excellence, the scriptures of the Old Testament present such a field of curious, useful, and noble investigation, on so many of the most interesting subjects, which can occupy the human mind, viewed under so many romantic, elevated, and interesting lights, and they are besides so rich in all the elements of true sublimity and beauty, whether in poetry or history, that they are pre-eminently worthy of the most minute and patient study, which the Christian philosopher or the man of taste and genius can bestow upon them. It will hereafter, perhaps, be regarded as an anomaly in the history of the human intellect, that the poems of Homer should for ages have attracted the attention of the profoundest minds, and been made for a time almost the exclusive object of criticism in all its forms, and of associated inquiry in all its ten thousand wanderings, and yet that the Hebrew writings of the inspired volume, though equally before the eye and in the memory of men, should have been long passed by with such total absence of every thing like an attentive study, as to have left the great body of the most learned critics completely ignorant of their true nature, and gravely mistaking their poetry for prose. Without going into a minute consideration of the causes of this neglect, the reflection is now a very familiar one, that it has not been owing to the want of attractiveness and grandeur in

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these writings, for in these respects they far surpass any thing that can be found in the whole circle of Grecian and Roman literature. The spirit of their poetry goes deeper into the human soul, and breathes a finer harmony of feeling; it calls forth thoughts that will never come at any other bidding. The *date* of their oldest poem is lost in extreme antiquity; and this is a charm, which would draw many to the pages of the Grecian bard, who had not a soul to feel or to appreciate his poetical beauties. If we step out of the circle of poetry into that of prose, which in a critical point of view has been equally neglected, what is there in all the celebrated histories of Greece to compare, in point of beauty, nature, and affecting simplicity of narrative, with some portions of the Pentateuch? It is a miracle, says Eichhorn, which has preserved our little Hebrew library so perfect. It is almost equally a miracle, which has kept it, till within comparatively a very few years, so perfectly unexplored.

The evils, which have arisen from a wrong conception of the nature of so great a portion of the inspired writings, have been multiplied. They have been the occasion of almost all the objections of infidels and the cavils of irreligious men. There cannot be a doubt, that just in proportion as the Hebrew scriptures, especially the poetical parts of them, are keenly and critically scrutinized, such objections and such cavils will utterly fade from the mind. They have often been excited by the mistakes, into which translators and commentators have fallen, when the Bible, in its original language, or rightly interpreted, would have precluded, so far as the intellect and not the heart is concerned, all possibility of their existence. A volume would hardly be sufficient to exhibit the nature of these mistakes, and the various sources from which they have arisen.

In the investigation of the Old Testament scriptures no one source of error has been more fruitfully prolific than the neglect to distinguish between what is poetry and what is prose. Every man's common sense, though he knows nothing of any literature but that of his own language, will show him the confusion, which must follow in the train of such a blunder. 'To what strange conclusions should we be led,' says Mr. Stowe, 'were we to interpret Milton's Paradise Lost in the same spirit and by the same rules with which we should read President Edwards on the Freedom of the Will?' Yet

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none but an orientalist, versed in the character of Eastern poetry, and well acquainted with its peculiarities in distinction from prose, can truly appreciate the consequences, which result from confounding the rules of interpretation peculiar to each. This common error has been accompanied by, and in part has involved, an entire disregard of the peculiar genius and character of each poet, and a habit of perusing and examining the Old Testament, as if it were all the work of one and the same individual genius, and produced at the same period, and under the influence of precisely the same circumstances of feeling and condition. It has involved of course a total neglect of the parallelistic mode of writing, which now affords a most invaluable means of arriving at the sense; and an effort to find a figurative meaning for common language, which has produced results scarcely outdone in absurdity even by the maxim of the Jewish Rabbins, that mountains of sense are hung upon every point in the Bible. Add to this the neglect and ignorance of oriental and sacred geography, climate, scenery, customs, peculiarities of feeling, religious rites, political institutions, and manners of domestic life, all extremely different from those of Occidental countries, and also varying much in different parts of the East,—and instead of being astonished at the errors of past ages, we shall find occasion to wonder that they are so few.

As an illustration, though an imperfect one, of the point on which we have been speaking, let us take an instance at random from the poetry of Collins. In one of his *Oriental Eclogues*, this child of fancy introduces into his fine description of Chastity the following exquisite line.

Cold is her breast, like flowers that drink the dew.

Collins thought that these Eclogues were extremely deficient in imagery adapted to the region where their scene is laid; and in general there may be some truth in the objection. But in the present instance no image could be more appropriately beautiful; for in the mind of an inhabitant of the Eastern world it would be associated with ideas of the coldness, that always accompanies the dew-fall at night in those hot climates. Suppose for a moment, however, that a native of Greenland should be criticising this poem. He would certainly think that the glittering bosom of an iceberg, on which the salt spray falls and freezes, would be a much happier and

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more appropriate image. A flower that drinks the dew would indeed tell him sweetly of an unsullied purity and freshness, but far from answering to the epithet *cold*, it would speak to his imagination only of the sunny skies and the warm fields of Elysium. Should this poem be read under the idea of its being mere prose, it would appear perfectly unaccountable, if not absurd. And yet, the contrast between the circumstances of life and climate at the North Pole, and those in the midst of which an Englishman is situated, seems hardly greater than that which exists between our own climate and manners and those which prevail in the Oriental regions. But if even an English critic should examine in what the peculiar aptitude of such a resemblance lies, or endeavor, as has often been done with the figurative language of the Scriptures, to apply it to practical use, and draw from it a grave and solemn lesson, he would find it not unfrequently converted by such a process into the merest nonsense. Nor is it only so with particular resemblances. Verse after verse of the most enchanting poetry in existence, if subjected to such an examination, would be despoiled of all its beauty and all its truth.

In the whole range of literature, nothing can afford a finer subject of inquiry than the Sacred Poetry of the Bible, considered apart from the circumstance of its inspiration, with regard to the influence which the history, climate, scenery, and whole condition of the Hebrews exerted in modifying its spirit and moulding its forms. Even a general and indistinct glance at their character and history presents them prominently to the mind as in all respects the most extraordinary people in the whole world. Amidst all antiquity they were not less a splendid astonishment in their national existence, than they are now, over every quarter of the globe, a proverb and a by-word in their life as individuals. While the grossest darkness of paganism enveloped all other nations, to them only, till the coming of our Saviour, was the knowledge of the true God communicated, and among them only did his spiritual worship exist. Shadowy and dim as were their conceptions of that religion, which beams in the fulness of light and purity from the New Testament, they were, nevertheless, a moral Oasis amidst the desolation of surrounding idolatry. The seductive example of their neighbors, and the singular depravity of their own disposition, were indeed forever inclining them to depart from the living God, and degrade themselves with idolatrous sensuality; nothing but

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a constant course of miracle and chastisement could keep them in any degree to their duty. Still, the knowledge of the glorious Jehovah, however unwillingly they obeyed his precepts, gave to their moral character a vast elevation above that of the whole world around them. The Sovereign of the Universe was the Supreme Administrator of their State. Before the glory of such a distinction, even at the commencement of their national existence, the artificial grandeur of the most magnificent empire passes into the shade. The consciousness that they were the chosen people of Jehovah, for whose sake all hostile nations were to be exterminated, and around whose borders there should be a perpetual defence, nourished in them a proud independence, and an unequalled intensity of patriotic feeling. The expectation of that glorious Being, whose coming was announced in the first revelation from Jehovah, and declared to be the one great object of their separate existence as the people of the Lord, powerfully strengthened their native attachments, and added to the loftiness of their character. The prosperity and splendor of Messiah's reign was dwelt upon with increasing fulness from age to age, in the predictions of every succeeding prophet, till it became the theme of universal exultation—the hope to which the imagination of every Jewish individual delighted to advert. They turned to those vivid prophecies for consolation amidst all misfortunes, and for triumph and gladness in their festivals. Almost every passage in their history, every ruler of their country, and every ceremony in their worship, were connected with the mysterious promise, and pointed forward to the glorious event.

The commencement of their national existence was not lost in obscurity, nor dated from circumstances in themselves mean or trifling. It was founded on an event no less august and solemn, than a covenant of mercy between the Most High God and his servant Abraham;—a covenant renewed with Isaac and Jacob, and from age to age with the most eminent and holy among the successors of the patriarchs. Always looking, with an expression which could not be mistaken, to the future advent of the Saviour, it designated them and their posterity as the chosen people, through whom all the nations of the earth were to be blessed. They could trace back their existence, through all its diversified changes, to one great patriarchal ancestor;—a being, honored to the end of life by supernatural revelations from Heaven, and regarded through the whole Eastern world

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as the most pious, venerable, and majestic character in all antiquity. India and Asia, the ancient disciple of Zoroaster, and the modern worshipper of the Arabian prophet, unite in doing homage to the memory of the Father of the Faithful.

Their early history was not left to be disfigured by the prolific invention of fictitious chroniclers, nor involved like that of other nations, in the perplexity of doubtful and contradictory relations. It was inscribed with the pen of inspiration, and at the same time glowed with the genius of their divinely commissioned lawgiver. Where can another history be found like that contained in the Pentateuch of Moses—so sweetly unaffected, yet so full of dignity; so concise, and yet so comprehensive; so rich in poetry, yet so chaste and simple in its style; so affecting in its pathetic recitals, and so vivid and powerful in its solemn and terrific scenes; and presenting throughout, a picture so graphic of the life and manners of the ancient Oriental world? The Pentateuch closes with the book of Deuteronomy, the last testimony of the Jewish legislator to his countrymen, containing a brief but vivid recapitulation of their past history, and a second concise declaration of the law. The nation had now gained a lasting experience of God's dealings with his people, and the generation had passed away on whose souls and bodies the blight of effeminacy and slavery had descended during their residence in Egypt. Aaron had been gathered to his fathers, Moses was about to die, and the tribes were just upon the eve of a happy entrance into the long promised land of Canaan. Under these circumstances, the words of Moses must have carried a thrilling impression into the hearts of the Israelites. How powerfully does he appeal to their experience of the judgments and mercies of Jehovah—with what mingled encouragements and threatenings, what fearful curses on the disobedient, what tender admonitions, what eloquent entreaties! Nor is the voice of prophecy silent; it speaks plainly of the coming Messiah; it predicts their own defection and consequent wretchedness; it almost relates the destruction of Jerusalem. The eight closing chapters of the book of Deuteronomy are perhaps the most sublime portion of the Scriptures. They contain the tremendous curses denounced against transgressors, and the unequalled blessings pronounced upon the obedient; the glowing historical song, which Moses, at the command of God, wrote for the people of Israel, to be forever in their memories, a witness against them

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when they should turn from the Lord their God; the animated and prophetic blessing upon the twelve tribes, and the short but striking history of the death of Moses, when he had viewed from the top of Pisgah, with an eye which old age had not dimmed, the land '*flowing with milk and honey*,' stretched out before him in all its compass and luxuriance.

Through all this short, but perfect and comprehensive history—the storehouse of poetic imagery to the prophets and psalmists—where is the page that is not full of materials to arrest the eye, and excite the imagination of the poet? What books could be more crowded with energetic recollections, sublime and picturesque events, instructive and terrible warnings? From the first interposition of Jehovah, to the moment when His presence is revealed to Moses upon Nebo, His glorious agency is every where visible. It is He who accompanies the patriarchs in all their journeyings, and makes trial of their faith; it is He who gives wisdom to Joseph, and makes the children of Israel to increase in Egypt; it is He who brings them out with His mighty hand and His outstretched arm; who reveals His glories at the Red Sea, on Mount Sinai, and through the wilderness; who dwells between the cherubim, and leads His people like a flock. Throughout, it is the purpose of the inspired historian to stamp upon the minds of his countrymen the most impressive sense of their peculiar dependence upon God; he closes with the declaration, so literally fulfilled, that they shall be invincible and glorious, if obedient to their divine Sovereign, but cursed, rejected, and miserable whenever they forsake Him.

The character of Moses himself, as it is depicted in the course of the history, was an invaluable treasure to the people. 'And there arose not a prophet since in Israel, whom the Lord knew face to face, in all the light and wonders which the Lord sent him to do in the land of Egypt, to Pharaoh, and to all his servants, and to all his land, and in all that mighty land, and in all the great terror, which Moses showed in the sight of all Israel.' His name could never be remembered without exciting in the bosom of the Israelite, the highest exultation of patriotic pride.

If the history contained in the Pentateuch was full of materials calculated to excite the popular imagination, to strengthen the national patriotism, and to convince the Hebrews of God's retributive providence, the history of successive periods in their

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existence was scarcely less so. We must pass by the period from Joshua to Samuel, and can only glance at the reigns of David and Solomon.

David's life was full of poetry; his character and reign were a proud inheritance to the Jewish people—the most delightful era in their history. He was eminently the anointed of the God of Jacob; under him they always recognized their Theocratical Constitution, and were again taught, as by the experience of their whole national existence, to seek prosperity solely in obedience to Jehovah, and to attribute to Him the praise of their victorious successes. David was favored with a magnificent renewal of the Covenant of God, with the additional promise, whose extensive and spiritual import as referring to the Messiah he evidently understood, that the royal succession should be in his house, and that his kingdom should be established forever. He fixed the royal residence at Jerusalem, and the capital of the nation was named the City of David, whither also he transferred, with public and splendid rejoicings, the Ark of the Covenant. Jerusalem became the capital of the Invisible King; his temple was built upon Mount Moriah; and thenceforward the City of David was called, by its most glorious title, the CITY OF GOD.

In no respect did David confer a greater benefit upon his countrymen, or leave the stamp of his own genius more indelibly upon the nation, than in the measures, which he adopted to improve the public worship, and give it a suitable character of magnificence and joyfulness. He formed for it a regular system of music and poetry; he appointed Levites to praise the Lord with songs and various instruments of music; he composed the most instructive and animating Psalms, to be chanted not only at all the sacrifices, but by the whole people, when they made their glad pilgrimages to Jerusalem at the seasons of the feasts. Himself the sweet Psalmist of Israel, he communicated to the national imagination, in no slight degree, the impulse of his own poetic genius.

The reign of Solomon was the most splendid in all the Hebrew annals; he is celebrated through the world as the greatest of Eastern monarchs. David left him in possession of a peaceful kingdom, and on him, in answer to his pious request, the spirit of wisdom was poured out apparently without measure. The regularity with which all the national affairs were administered, the magnificence of his court, the abundance of

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his riches, so that he 'made silver in Jerusalem as stones,' and the gorgeousness of the Temple, which Jehovah permitted him to build, surpass all description. He inherited likewise the poetical genius of his father, and the sacred Book tells us that his songs were one thousand and five. Happy would it have been for Israel, had his piety to Jehovah equalled his wisdom and genius. For his idolatry the crown of glory was taken from the nation. Scarcely had he died, when the ten tribes revolted, and in about four hundred years Jerusalem was destroyed. These centuries were the period during which most of the prophets, from Elijah downwards, appeared and uttered their predictions. Jeremiah prophesied the captivity of Judah, and after the mournful event, uttered his affecting Lamentations. *How doth the city sit solitary, she that was full of people!* His warning voice had long before declared, *The sin of Judah is written with a pen of iron—with the point of a diamond.* He was reserved to be a historical witness of the events, which Inspiration had predicted from his own lips.

The Hebrew muse has been called the denizen of nature; with equal propriety may she be termed the denizen of history. She draws much of her sublimest inspiration from the instructive record of God's dealings with his people. Even the Psalms are full of the finest imagery gathered from historical events; but the prophetic poetry is by far the most copious in its sublime and beautiful allusions. The history of the Hebrews in its spirit is all poetry; their poetry is almost a history, both of the past and the future. For the Prophets, what could be more appropriate, in the exercise of their functions as the messengers of God, than to paint their warnings with an unceasing and energetic appeal to the well known experience of the nation? Such an appeal was not addressed to a people ignorant of their own history. It was the pride of a Hebrew, as well as his duty, to have the law and the testimony inscribed upon his heart. A Jew, well instructed, could almost repeat the contents of the sacred Books from memory. On their study the utmost expenditure of wealth and labor was lavished. They were copied with the richest penmanship; they were incased in jewels; they were clasped with diamonds; they were deposited in golden arks. The whole of the one hundred and nineteenth Psalm is composed in praise of their wisdom, and to inculcate their perusal. How

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striking was the last charge of Moses to the people: 'And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up—thou shalt say unto thy son, we were Pharaoh's bondmen in Egypt; and the Lord brought us out of Egypt with a mighty hand!'

Powerful indeed must have been the influence of such familiarity with those sublime compositions! The unceasing frequency with which their remarkable passages are referred to by the sacred poets, shows with what prevailing power they dwelt in the popular imagination. How could it be otherwise? Almost every rite in the ceremonial of the Hebrews was founded upon or in some way connected with the remembrance of supernatural interposition. Almost every spot in the land of the Israelites was associated with the history of those glorious events. Three times a year the whole Jewish multitude went up to the tabernacle or to Jerusalem at the feasts. Did they pass through the valley of Hebron? There lay the bones of the patriarchs Abraham, Isaac, and Jacob. Did they stand on the plains of Mamre? There Abraham erected an altar to Jehovah, and entertained the angels. Did they visit the borders of the Dead Sea? Its sluggish waves rolled over the cities of the plain, and they traced the ruins of the fire-storm from heaven. If they looked towards Nebo, it was the sacred and mysterious burial-place of Moses. If they passed near Gilgal, there the sun and moon stood still at the command of Joshua. If they rode on the mountains of Gilboa, there the glory of Israel was slain upon their high places. Such thrilling recollections must have met them at every step, besides being often mingled in the memory with some vivid burst of poetry. An event, like that of the passage of the Red Sea, commemorated in a song such as that of Moses, was a treasure in the annals of the nation, whose worth in the formation of the national spirit we cannot adequately appreciate. Nor can we conceive the depth of emotion, which must have dilated the frame of a devout Jewish patriot, every time he remembered that sublime composition.

The general character of their sacred and civil constitution, as well as innumerable particular observances, domestic, political and religious, were full of influences, which could not be otherwise than powerful in strengthening the popular imagina-

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tion, and filling it with elevated and beautiful conceptions. The Oriental manners in domestic life, joined to the Mosaic institutions in regard to private society, shed a spirit of refinement over the social intercourse of the Hebrews, and exhibit it to us connected with very many picturesque and romantic associations. Their hospitality was generous and open-hearted; their modes of salutation appear even extravagant in the profession of kindness and good-will. Strangers were to be treated with peculiar attention; 'the stranger that dwelleth among you shall be unto you as one born amongst you, and thou shalt love him as thyself; *for ye were strangers in the land of Egypt.*' The aged they were commanded to regard almost with a religious veneration; the crown of gray hairs was sacred: '*thou shalt rise up before the hoary head, and honor the face of the old man.*' 'Honor thy father and thy mother,' was one of the commandments of the Decalogue. The observance of the duties of filial attachment and respect were connected with peculiar blessings, and their violation with imprecations and punishments of an awful severity.

The celebration of nuptials was a season of joyous festivity, attended by many interesting and imposing ceremonies. The dress of the bride and bridegroom was rich and splendid; and so, indeed, among the Hebrews, were all garments worn on festival occasions. The birth of children was with them an event thrice blessed—to be hailed with exulting ceremonies. The birth-day of a son was honored as a festival, and observed each year with lively demonstrations of gladness.

A spirit of kindness and benevolence was inculcated even towards animals; and towards the poor and friendless in the land how beautiful was the humanity enjoined upon the Israelites, especially at the season of harvest! 'When ye reap the harvest of your land, thou shalt not wholly reap the corners of thy field, neither shalt thou gather the gleanings of thy harvest; and thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; *thou shalt leave them for the poor and the stranger.*'

The Jewish people were unequalled for the festive delightfulness and picturesque observances of their sacred seasons. The Sabbath was an institution worthy of the wisdom and benevolence of their Invisible Sovereign. He *blessed* it emphatically, as a day of holy cheerfulness and rest for the Hebrews, their servants and their cattle. In it they were to contemplate

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with glad and grateful emotions the Creator and Governor of the universe; they celebrated it with religious songs and instrumental music; they gathered around their prophets to receive instruction; they taught their children the wonderful providences of God; and if they were not too far distant, visited the tabernacle or the temple.

The year of Jubilee was a national custom, combining, in an eminent degree, all that is picturesque, endearing, free, noble and patriotic. It was a long and hallowed Sabbath of rest and universal liberty; they returned every man to his possession, and every man to his family; all debts were cancelled; the bondman, free as the air, came back to his inheritance; the aged exile visited the long-lost home of his fathers.

The three great sacred festivals, at the return of each of which all the tribes appeared at the tabernacle, or, after the building of the temple, went up to Jerusalem, bringing presents, offering sacrifices and exulting together with songs, and music and dances, in God, 'whose mercy endureth forever,' were eminently calculated to communicate an ardent and joyous impulse to the popular imagination. Nor could any thing have been devised more admirably adapted to give life and intensity to the national patriotism, than these proud meetings of all the millions of Israel around the gorgeous temple in the City of their God. How joyful was the pilgrimage of the people, in bands of families and kindred, beneath the delicious sky and amidst the lovely scenery of Palestine, as they wound among the hill-sides, or stopped to refresh themselves in the valleys, lifting up their voices from time to time, accompanied with instrumental music, in those beautiful songs of degrees, which David composed for the purpose;

> 'I was glad when they said unto me,
> Let us enter thy house, O Lord!
> Our feet shall stand within thy gates, O Jerusalem!'

First in the year came the feast of the Passover, solemn and striking in its ceremonies; then the feast of the Harvest, full of rural plenty and festivity; last and most splendid the feast of the Tabernacles, instituted in memory of the journey through the wilderness. During its continuance of eight days, the Hebrews dwelt in shady tents erected with green boughs along the streets of the Holy City, and on the roofs of the houses, in commemoration and imitation of their dwellings

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when they wandered from Egypt. As it was likewise a festival of gratitude after the vintage and the gathering in of the fruits, they carried about the productions of the choicest trees, with branches of palm, willow, pomegranate and other verdurous and thick-foliaged boughs. The whole season passed away with songs and music in unmingled delightfulness. Jerusalem, during its continuance, wore the appearance of one vast, thickly-clustered, luxuriant bower, in the evening widely and splendidly illuminated.

In the character of the Jewish priesthood there was every thing combined, which could render it venerable and majestic; their office was connected in the popular mind with all possible associations of grandeur. They and their posterity were solemnly divided from the rest of Israel for the service of the living God. Four thousand Levites, clad in robes of white linen, ministered as musicians and singers, but the classes of the priests were limited to the posterity of the sons of Aaron. The ceremonies of their consecration, continued during eight days, were solemn and impressive in the highest degree. Their vesture was splendid—especially that of the high-priest: over his forehead he wore a plate of gold, fastened to the mitre by a blue fillet, and inscribed with the august device, *Holy to the Lord.*

The Jewish worship combined, perhaps, in the greatest possible degree, magnificence with minuteness and simplicity in its rites. During the wanderings in the wilderness, and indeed for more than four hundred years, till the time of David and Solomon, the religious ceremonial was not invested with all that external grandeur, which it afterwards possessed; yet the tabernacle of the congregation was a gorgeous pavilion, and its furniture of a character well adapted to strike the imagination with interest. With what evident and patriotic pride does even the Apostle, under a more glorious and perfect dispensation, look back to the days of the former priesthood, and enumerate the objects in the tabernacle, 'which is called the Holiest of all; which had the golden censer, and the ark of the covenant overlaid round about with gold, wherein was the golden pot that had manna, and Aaron's rod that budded, and the tables of the covenant; and over it the cherubim of glory, shadowing the mercy-seat.' Wherever the tabernacle with the Ark of the Covenant abode, the whole town or village was consecrated by its presence.

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After the building of Solomon's temple, the rites of worship were performed with a magnificent and solemn grandeur, of the effect of which, in the midst of an edifice so glorious, our imaginations, though aided by the utmost minuteness of description, can very inadequately conceive. The temple was 'garnished with precious stones for beauty,' and almost every part of it was overlaid with gold. The king dedicated it with offerings and ceremonies worthy of its own grandeur, and the majestic solemnity of the occasion. Nothing could exceed the sublimity of his consecrating prayer, or of the thanksgiving songs of David, accompanied with instrumental music, and uplifted on the voices of four thousand Levites. Jehovah himself manifested his awful presence, 'so that the priests could not stand to minister by reason of the cloud; for the glory of Jehovah had filled the house of God.'

The following is an animated description of the temple in Jerusalem, drawn, indeed, as it appeared in the time of Herod the Great, but yet, perhaps, presenting no inadequate picture of its glory as it first rose under the eye of its royal founder. It is from the pen of Croly. 'I see the court of the Gentiles circling the whole; a fortress of the whitest marble, with its wall rising six hundred feet from the valley; its kingly entrance, worthy of the fame of Solomon; its innumerable and stately dwellings for the priests and officers of the temple, and above them, glittering like a succession of diadems, those alabaster porticoes and colonnades, in which the chiefs and sages of Jerusalem sat teaching the people, or walked, breathing the pure air and gazing on the grandeur of a landscape, which swept the whole amphitheatre of the mountains. I see, rising above this stupendous boundary, the court of the Jewish women, separated by its porphyry pillars and richly sculptured wall; above this, the separated court of the men; still higher, the court of the priests; and highest, the crowning splendor of all, the central temple, the place of the sanctuary and of the Holy of Holies, covered with plates of gold, its roof planted with lofty spear-heads of gold, the most precious marbles and metals every where flashing back the day, till Mount Moriah stood forth to the eye of the stranger approaching Jerusalem, what it had been so often described by its bards and people, a 'mountain of snow, studded with jewels.'

The loneliness of the Holy of Holies, in the absence of a visible image, surrounded as the Hebrews were on all sides,

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by nations of idolaters, whose temples were crowded with the most grotesque forms of wood and stone, that a degraded heathen ingenuity could invent, must have powerfully affected their imaginations. With what awe and wonder it filled the mind even of Pompey, when after passing all the external splendors in the approach to the recesses of the Jewish temple, he lifted the separating veil, in the full expectation of finding a statue which would answer in its majesty to the gorgeous decorations that had already excited his curiosity to the utmost, but found himself a daring intruder, in the holy solitariness and silence!

Our limits will not suffer us to speak more minutely of their national and religious customs, or of the circumstances of their history. They were all full of poetical effect. The smallest of their rites were important, and often they were grand and magnificent in the extreme. Their existence itself was for ages a continued miracle; and their history abounded in such proud and endearing recollections, and teemed with events of such supernatural glory, and with characters of such holy faith and intellectual grandeur, that it would have constituted the strangest of all anomalies, had not the national imagination been peculiarly grand and elevated.

Their climate and scenery exerted a greater influence in moulding their character and giving a spirit to their poetry, than the same circumstances have done with almost any other people. The power of these causes is always greater perhaps, than we are disposed to believe. Their influence is silent, but it is constant and gradual, even from infancy to the maturity and decline of life. Their operation in aiding to unfold the faculties, and in giving a tinge to the poetical susceptibilities of the soul is indeed subtle, delicate, and refined. If it could be watched in its progress and measured in its power, as the more material influences can be, its extent, all-pervading though invisible, would astonish us. Could the idea of Foster be realised, and a mind which has arrived at maturity go back, step by step, through its past existence, and analyse and classify the innumerable influences which have contributed their share in the formation of the man, we apprehend that not the least powerful would be found to have proceeded from the appearances of external nature. And why should it not be so? Can any thing except the moral providence and the word of God be better fitted to refine and meliorate the character of an intelli-

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gent being, than the ceaseless operation of such sublimity and beauty as he sees exhibited in the forms and hues of the natural universe? The contemplation of nature is a universal school of silent moral discipline. When devotional sentiments are united with a sensibility to natural beauty, and the mind beholds the Deity in His works, it is elevated by impressions whose power can scarcely be calculated, because they are unnoticed, and constantly recurring.

To the climate and scenery of Palestine we have to look from almost every page of the sacred poets for the explanation of particular allusions, and in order to the full enjoyment of their most beautiful imagery. It afforded in its variety almost all the elements of peculiar sublimity and beauty in the material world. It afforded them likewise in opposition and contrast. The extent of the country was indeed narrow, yet being intersected with numerous ranges of hills that were capable of cultivation even to the summit, its surface was in reality extensive, and the variety of its climate multiplied. 'At the foot of the hill grew the products of the torrid zone; on its side those of the temperate; on its summit the robust vegetation of the north. The ascending circles of the orange grove, the vineyard, and the forest, covered it with perpetual beauty.' The mountain ridges were not less salubrious and opulent in their various productions. The most careless reader of the Bible must have seen how the names of Lebanon and Carmel were connected in the imagination of a Hebrew with all ideas of fertility and delightfulness. The very appellation of the latter indicates the fruitfulness of its mountain-ranges, and of the valleys which they form; for Carmel literally signifies the *garden of God*. The summits of these ranges were crowned with forests of oak and fir; the valleys were covered with laurels and olives; and there was no want of fountains and rivulets, most grateful to the inhabitants of the East.

From the most deliciously beautiful and secluded vale, an Israelite might pass in a few hours to the grandeur of the cedar forest on Lebanon, or to the rocks and snows on the summit of Antilibanus. From the sweet lake of Tiberias he might find himself at no very distant interval walking on the bituminous and gloomy shores of the Dead Sea; and from a garden like the bower of the first pair in Eden, he might soon be transported to the savage sterility of the desert of Engeddi. There was an astonishing contrast and variety at different in-

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tervals of season and situation in the river Jordan, whose origin is found in the perpetual snows of Antilibanus. After measuring a subterranean journey of a few miles from the foot of the mountain, it bursts from the earth with noise, and then, after a few miles of verdure and fertility, passes into the lake Merom. Here the beholder might at one season in the year, cast his eye over a broad and beautiful expanse of water, and at another over an almost interminable marsh, covered with shrubs and rushes, the abode only of wild beasts. Again when the snows melted on the mountains, the reedy marsh became a sheet of pure crystal, bordered with luxuriant verdure and foliage. Pursuing the course of this celebrated river a few miles further, he found himself at the lake Gennesareth, or Sea of Galilee, or Tiberias; forever dear in the imagination of the Christian, from the memorable scenes acted on its shores, and from the appearance of our Saviour to his alarmed disciples on its bosom in the midnight storm. It was pure and sweet, secluded in its natural situation, and surrounded by elevated and fruitful declivities. Passing from this delightful lake, the river flowed onwards, increasing in beauty and size, through a tract of country, to which its waters and tributary streams imparted such a freshness and fertility, that it was termed by way of eminence, the region of Jordan. And then, after all this variety, and from all these scenes of purity, fragrance and life, it was swallowed up in that image of all stagnant and frightful desolation, the Dead Sea.

There were similar transitions, at some seasons, in an incredibly short space of time, over the whole face of nature. 'In spring and summer, if the east wind continues to blow for a few days, the fields are in general so parched, that scarcely a blade of any thing green remains; many rivers and streams are dried up, the others are rendered briny, and all nature seems at the point of dissolution. After a plentiful shower, however, the fields revive beyond all expectation, the rivers resume their course, and the springs pour forth more delicious water. Dr. Russell has described this regeneration of nature in most lively colors in his Natural History of Aleppo, a book which every man ought to read, who wishes, not only literally to understand the Oriental writers, but to feel them.'*

* Michælis upon Lowth. The learned annotator, was, however, mistaken in his reference to the work here mentioned.

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Earthquakes, perhaps the most terrible of all natural phenomena, were common, and likewise the severest thunder and lightning. There were also other calamitous as well as wonderful appearances and productions of nature, with which Palestine was from time to time visited. Such was the hot and deadly wind called by the Arabs Simoon, and by the Turks Samyel, which might be seen approaching from the distance, like a cloud, tinged with red as a rainbow, and attended with a rushing noise. The devastation of the locusts was another natural calamity, described with such fearful, but exact colors, in the second chapter of Joel.

Such a climate and such scenery and phenomena could not and did not fail to give a rich poetical cast to the whole popular mind.

The manner of life among the Hebrews was such too as brought them most completely under the influence of all the various appearances of nature. They were, till the conquest of Canaan, entirely a nation of shepherds; and though they afterwards in some measure laid aside their Nomadic habits, yet they still continued husbandmen; and the mildness of their climate, as well as the nature of their employments, kept them constantly in the open air, and alive to all the influences of natural scenery and phenomena, to a degree, which with us exists only in imagination. By the laws of Moses, agriculture was in reality made the basis of the state. It was a highly honorable employment; so that while the greater part of the people were, in their ordinary occupation, husbandmen, the richest and the noblest among them did not disdain to engage in rural labors. To every citizen was divided by the inspired legislator, an equal portion of land, which he and his sons after him might cultivate; nor could it be alienated from the family, for a longer period than until the great returning jubilee. How powerfully must this institution have tended to keep alive in every bosom the feelings of patriotism and the ties of family endearment, as well as to preserve a primitive and happy simplicity in character and manners! It has been well called the strongest and most benevolent bond that ever bound man to his country.

Such were a few, for after all we have mentioned only a few, of the circumstances, which may have combined to give to the Hebrew imagination its mingled richness, grandeur and simplicity, and its peculiar spirit and coloring to their poetical

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composition. Yet we have exhibited a rich enumeration. What nobler materials could have been desired, out of which to mould a lofty-minded and religious national character, or to build up a holy, grand, elevated, and ample national literature! A delicious climate;—the cultivation of a fertile soil and the contemplation of the most diversified scenery as their daily employments;—a history full of all thrilling, patriotic and devotional recollections;—a glorious theocracy as their form of government;—a sanctified and magnificent priesthood;—a ritual, imposing in its external glory, and in almost every particular, teeming with high associations, and pregnant with prophetic meaning!

It is delightful, in reading the Sacred Poets, to trace the direct influence of all these circumstances, in passages of extreme beauty, occurring to the eye on almost every page. Our limits will not suffer us to be thus particular. Yet we cannot but glance at the general character of that class of their poetry, which is descriptive of natural beauty, or founded on their admiration of the works of Jehovah. They drank in the delicious influences of climate and scenery, and poured forth their emotions as inartificially and unconsciously as the warblers of the grove. In the absence of all foreign and far-fetched imagery, they dwelt with a contented fondness on the scenes amidst which they had been born and nurtured, with a purity and exultation of feeling, which powerfully captivates the heart. They never sought to astonish by magnificence, either in words or images, but were unstudied in their simplicity, and satisfied with expressing the truth. Yet they expressed it with vivid intensity, in words and figures that are flashing with life and energy.

When they looked forth upon the glories of nature, the idea of God as the Sovereign of their own State, no less than as the Creator and benevolent Ruler of the universe, and the only object of religious veneration, was continually before their minds. There was hardly a spot, which was not consecrated by the grateful recollection of some supernatural interposition of his providence. Wherever they turned their eyes, it was not merely the luxuriant fertility, or the sublime features of the scene, which told them of the goodness, and wisdom and power of Jehovah; the country possessed a more endearing memorial, it was connected with a more thrilling association. It spoke to them of the strange miracles which God had wrought for the

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protection of his chosen people, and the destruction of idolatrous nations.

O God, when Thou didst march forth before Thy people,
When Thou didst march through the wilderness,—
The earth shook, the heavens also dropped at the presence of God;
Sinai itself at the presence of God—the God of Israel!

Their thoughts were never shut in by the mere limits of their physical vision, but always soared upward to the contemplation of the Deity. When they attempted to describe His works, their lips involuntarily uttered His name. God was in every thing, and every thing had a voice of praise to Him. The fields, the forests, the rivers, and the mountains, exulted in Jehovah, like animate intelligences.

The hills are girded with exultation,
The pastures are clothed with flocks,
The valleys are covered with corn,
They shout for joy, yea, they sing.

They looked upon creation, not with the feelings of natural philosophers, but with the fresh admiration of the soul. No system of philosophy chained down their attention to secondary causes; they looked to God. The 'course of nature' was not; they had no term for it; they formed no idea of it; it was God. The universe and its minutest existences hung suspended on His ever-present, ever-acting, everlasting agency. Each night His hand guided the stars in their courses; each day He renewed the light, and garnished the earth with beauty. Not a flower, but was the object of His care; not the meanest animal, that did not live by His goodness.

He prepareth rain for the earth,
He maketh grass to grow upon the mountains.
He giveth to the beast his food,
To the young ravens which cry.

He is represented as the Universal Father, providing daily for the wants, and taking care of the happiness of his innumerable family. It is this which gives to the one hundred and fourth psalm its inexpressible beauty.

These wait all upon Thee,
To give them their food in its season.
Thou givest it unto them,—they gather it;
Thou openest wide Thine hand—they are satisfied with good.

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All creation repairs, like a child, to its Father, and retires, contented and rejoicing in His care. The Sacred Poets never contemplated the glories of Creation, but with the lively gratitude of sincere worshippers, delighted to witness and to feel the all-pervading mercy of Jehovah. The utterance of their ecstacy at the view of the scene before them, was the fervent expression of real emotions. They loved a minute enumeration of its beauties, because it was a moving, animated picture of the glory and benevolence of God; because their souls were moulded by its influence, their hearts were touched with human kindness, they sympathised with the happiness of all animated nature, and rejoiced to sing forth their grateful, involuntary praises to the Giver of good.

There is scarcely an object in nature, which they do not personify. The sun, the moon, the stars, the winds, the clouds, the rain, are the ministers and messengers of Jehovah. The fields and the trees break forth into singing, and even clap their hands for joy. The mountains melt at His presence, or flee from His wrath in terror; and the sun and the moon hide themselves from the terrible flashing of His armor. What unutterable sublimity do such bold personifications communicate to that chapter in Habakkuk, commencing, *God came from Teman,—The Holy One from Mount Paran.*

> The mountains saw Thee, and were troubled;
> The overflowing of waters passed away;
> The deep uttered its voice,
> It lifted up its hands on high.
>
> The sun and the moon stood still in their habitation;
> In the light of Thine arrows they vanished,*
> In the brightness of the lightning of Thy spear!
> In indignation Thou didst march through the land,
> In wrath Thou didst thresh the heathen.

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* Several distinguished critics render this passage, *they went;* making the personal pronoun refer to the Israelites, who, he thinks, are here described as marching forth to victory by the flaming lightning of Jehovah, represented as His armor. Herder, with a more poetical conception of the passage, and perhaps one which is equally critical, says, that the sun and moon are here described, in the Oriental manner, as advancing to the door of their tent, to gaze at the fearful commotion around them; but overpowered and terrified by the flashing of Jehovah's armor, they start back, and vanish or hide themselves from its brightness.

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The poetry of the Hebrews should scarcely be mentioned in connexion with that of other nations, but to point out its vast and delightful superiority. In the influences and the circumstances under which it grew, it has scarcely any thing in common with the poetry of the Pagan world. Excepting the important fact that we, like the Sacred Poets, are acquainted with the true religion, it is still more diverse in these respects from the poetry of modern times. With them, it was the pure offspring of nature. They had no critics, they knew no laws of rhetoric, no technical variety of composition. The schools of the Prophets were the only institutions in which they made the power of conveying instruction, oral or written, any thing like a study. There they prepared themselves in human learning, and when the Spirit of Inspiration descended upon them, the prophecies and the poetry they uttered were not untinged with the hues of their own genius and feelings. On the contrary, every peculiarity of individual intellect was made vividly conspicuous.

Though the point admits of doubt, it is of little importance to know whether the earliest snatches and glimpses of poetry, which we meet with in the Old Testament, such as the blessing of Jacob, and the prophecies of Balaam, were at first uttered precisely in their present form, or reduced to it by the narrator. The wild, hurried, mournful, unwilling strains of Balaam's sublime predictions, are full of the appearance of having been the immediate, irresistible, we had almost said, verbal inspiration of the Spirit of God. The King of Moab, finding it impossible for Balaam to curse Israel —'How shall I curse whom God hath not cursed?'— placed him in three different situations. 'Come, I pray thee, I will bring thee unto another place; peradventure it will please God that thou mayest curse me them from thence.' We behold the prophet in imagination, standing amidst the princes of Moab, on the high places of Baal, or the summit of Pisgah, his arm outstretched and pointing to the white tents of Jacob, which spread out far and peacefully over the plain beneath him, his countenance almost transfigured by the vision of his soul—bursting forth at once into the most majestic strain of prophecy and poetry.

> Lo! the people shall dwell alone,
> They shall not be numbered among the nations!
> Who shall count the dust of Jacob,
> Or the number of the fourth part of Israel?

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Let me die the death of the righteous,
And let my last end be like his!

* * * * *

I shall see him, but not now!
I shall behold him, but not nigh!
There shall come a Star out of Jacob,
A Sceptre shall rise out of Israel.

* * * * *

How goodly are thy tents, O Jacob!
Thy tabernacles, O Israel!
As the valleys are they spread forth,
As gardens by the river's side,
As the trees of aloes, which the Lord hath planted,
As the cedars by the water-courses!

Balaam is the most sublime example of the nature of the prophetic impulse, in the whole Bible. From the account given of him (Numbers, xxii. xxiii. xxiv.) we should deem it very probable, that we have his words precisely as they came from the lips of the excited prophet. There is the same probability in regard to the blessing of Jacob. Yet the present highly sublime and poetical structure of these pieces might have been given them by Moses. None can doubt his ability. His Ode on the Passage of the Red Sea, his prophetic blessing on the tribes of Israel before his death, his song of warning to the congregation, and the ninetieth Psalm, prove that he possessed a genius equal to that of the finest poets of his nation.

It is probable that much of the poetry in the Old Testament, the prophetic poetry, was composed, as we say, extempore;—uttered in a poetical form—the best adapted to the expression of sublime ideas and excited feeling—under the immediate influence of inspiration. From the example of Elisha, (2d Kings, iii. 15,) who, when about to deliver a message from Jehovah, called for a minstrel, and when the harp was touched, 'the hand of the Lord came upon him,' and from other instances, we are led to believe, that the Hebrew prophets and poets may have often composed with the aid of instrumental music, uttering their predictions, or chanting their extempore hymns to accompany the strain.

In regard to Isaiah, there is internal evidence that his predictions were not committed to writing till after they were spoken, and the highest probability that they were spoken in their present form. From the very instructive and interesting

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account in Jeremiah xxxvi. we find, that in the fourth year of king Jehoiakim, the prophet, by the command of God, dictates to Baruch the scribe, for the first time, all his previous prophecies. After this roll is destroyed by the angry monarch, Baruch again writes 'from the mouth of Jeremiah, *all the words* of the book, which Jehoiakim, king of Judah, had burned in the fire; and there were added besides unto them many like words.' From such passages there is reason to believe, that the prophetic poetry of the Old Testament comes to us exactly in the words and the form in which it was at first spoken. It can scarcely be otherwise; for why should the prophet alter or remodel what he had originally uttered from inspiration, and what all who had heard it could not fail to recollect?

The parallelistic arrangement is the most marked and general characteristic of Hebrew poetry. Though it became more regular with music and dancing, and though it seems to have been customary with the Hebrews to chant their sacred hymns in alternate choirs, answering each other in the correspondent lines, yet it cannot be doubted, that we are to look to the constitution of the human mind for the origin of this system. Strong feeling is never satisfied with the simple assertion of a sentiment; it must be repeated and enforced by a variety and change of expression. The best specimens of Indian eloquence which we possess, exhibit some beautiful instances of a parallelism like that of the Hebrew Poets.

Whatever might have been its origin, it exhibits itself not only as the characteristic peculiarity of the sacred poetry, but as one of its most beautiful features. Its simplicity is such that it never tires or becomes monotonous, but always falls upon the ear with new gratification. An English poet and critic finely remarked in regard to it, 'In repeating the same idea in different words, the Hebrew muse seems as if displaying a fine opal, that discovers fresh beauty in every new light to which it is turned. Her amplifications of a given thought, are like the echoes of a solemn melody; her repetitions of it, like the landscape reflected in the stream. And whilst her questions and responses give a life-like effect to her compositions, they remind us of the alternate voices in public devotion, to which they were manifestly adapted.' This subject is illustrated with great beauty in the nineteenth of Lowth's Lectures. It would seem incredible, were it not palpably exemplified in the most sublime instances, that the

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simple repetition of an idea, often with very little variety, even in the expression, can be productive of so powerful an effect. The twenty-ninth Psalm, which is so full of majesty, owes the strength of its impression on the soul of the reader in a great measure to the amplification of one or two sublime ideas in the nervous simplicity of the Hebrew parallelism. We may be permitted to illustrate this truth by a short quotation.

> The voice of Jehovah is upon the waters;
> The God of glory thundereth;
> Jehovah is upon many waters.
> The voice of Jehovah is powerful;
> The voice of Jehovah is full of majesty.
> The voice of Jehovah breaketh the cedars;
> Jehovah breaketh the cedars of Lebanon.

Whether the Hebrew poetry possessed any regular metre in connexion with this parallelism, or what was its exact nature, we have no means of determining. The frequent adaptation of its strains to music, renders it probable that it must have been regulated, if not by syllabic laws, yet by fixed principles of harmony and cadence. The corresponding alternation of its distichs may be denominated verse; but this arrangement was unfettered with rhyme, and adapted itself with an agreeable irregularity to the various character and symmetry of the thought. For this reason, a professed translation of the Sacred Poets is displeasing, unless the parallelistic divisions be as nearly as possible preserved, without the addition either of rhyme or metre. The English language seems to be the best adapted of all modern tongues to the accomplishment of this purpose; because it is the one which expresses most distinctly the spirit and beauty of the original with the least variation from the form and letter. In rendering all other foreign poetry into his own language, the translator may often, with the greatest happiness, vary both the coloring and expression of his author's thoughts; and he is not unfrequently obliged to call in the aid of metre and rhyme, sometimes to cover the poverty or conceal the extravagance of the sentiment, and generally, to give additional pleasure to the reader. But in a translation from the Sacred Poets, the mind involuntarily rejects every foreign ornament; it asks for no artificial beauty which the original does not possess; it demands the soul of the poetry in a garb as plain and simple as

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the idiom of a modern language will possibly admit. It is a striking proof of the amazing power of the Inspired Poets, that they cannot be divested of their native majesty and beauty, even in the most languid versions of the most miserable tongues; and on the other hand, that with the most vivid, accurate, and admirable translation of which any language is capable, it is impossible to convey an adequate impression of what the mind feels, when admitted to enjoy the full excellence of their poetry in the very idiom in which it was originally uttered.

One great cause of the difficulty of conveying its spirit fully into other languages, is found in the character of life, breath, and motion, which belongs to its bold and figurative expressions, notwithstanding their remarkable simplicity. They invest the thought and display it before the mind, as the most transparent atmosphere surrounds the beautiful objects and appearances of the natural world, presenting them perfect to the vision. Imagination and language seem moulded into one, and inspired with the same ceaseless energy. Thus the activity of that subtle power is never compelled to wait for the service of words; it seems as if at every new movement it created a new and picturesque idiom to answer its demand, and clothe the ideal image with life. Other languages employ abstract terms and dry delineations of thought; but the Hebrew refuses them, and indulges its love of powerful metaphor by investing abstract ideas and inanimate objects with all the vivid attributes of existence. The morning stars are *sons of the dawn;* arrows are *sons of the bow*, or *of the quiver;* the hills are *girded with exultation;* the deep *uttereth its voice, and lifteth up its hands on high;* the ark *walks upon the face of the waters;* the blood of Abel *cries from the ground;* and *the shadow of death is on the eyelids of the mourner.* Again, when they describe a tumultuous commotion, they speak of *the roar of the waves and the tumult of the people;* and when the voice of Jehovah is uttered, there is the stillness, and trembling, and 'melting away' of the earth and the nations. To their remarkable simplicity, and the united grandeur, familiarity, and frequent use of their metaphors, are owing, in a great measure, the strength, vividness and energy of their descriptions.

They had no languid, luxurious, or sonorous epithets, such as those with which other poets often encumber and weaken their thoughts, and which are often considered, with great perversity of taste, a rare beauty in poetical composition;

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they had even none such as the Greeks and Romans used, nothing like the 'silver-footed,' or the 'golden-haired,' or the 'far-darting.' We all remember the ἀργυρόπεζα Θέτις, the κορυθαίολος Ἕκτωρ, the νεφεληγερέτα Ζεύς, the πολυφλοίσβοιο θαλάσσης, and, still more richly poetical, the εἰνοσίφυλλον Πήλιον, of Homer. The Greek is full of such picturesque and imaginative expressions, and Homer, of all poets, uses them with the most admirable freedom and skill. Our own language too is not unadorned with this beauty. Milton, who almost thought in the rich languages of antiquity, exhibits many fine examples of it, such as 'sable-vested night,' 'drowsy-flighted steeds,' 'close-curtained sleep.' Collins, another master of the mingled richness and fineness of our language, uses compounds of great merit; we recollect the 'dim-discovered spires,' in his Ode to Evening. In the older poets, Spenser, Drayton, Shakspeare, they often occur. But the Hebrews, in their severe simplicity, seem almost to have disdained to resort to such artificial combinations, however beautiful. The genius of their language is superior to them. Their adjectives do not even admit an alteration from the positive form; the comparative degree being expressed by prefixing a preposition to the noun; the superlative has no appropriate form or construction, but is expressed by various circumlocutions. They have no compound epithets. They accordingly express their thoughts with the most unconscious simplicity, and seem to have known no such thing as an attempt to elaborate their language, or retouch its colors. The arts of criticism and correction did not then exist. They wrote, not for fame, not from imitation, but from unsought and irresistible impulses; from the free flow of devotional and patriotic feeling. All was pure nature, fresh, young, undiseased.

The peculiar construction of their language rendered it more poetical than any other in existence. Herder called it 'an abyss of verbs and verbal derivatives—a sea of energetic expressions, agitated and tossing with life and motion.' To those who are acquainted with the Hebrew tongue, the figure is not extravagant. Almost every noun looks to the verb as its ancestor, and communicates to all successive derivations the same character of activity which it received from its own origin. The nouns too are used as adjectives, and preserve, through all their shades and changes, the life and energy of the parent stock. The verb is the strong trunk of a noble tree, whose

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boughs and foliage and fruits constitute the whole wide-spreading language. Its conciseness is likewise such as cannot be imitated in any other tongue. Particles—which invariably weaken, at the same time that they connect a language—have scarce a separate existence, being joined to some important word. Conjunction, pronoun, and verb, form but one word; object, subject, and predicate, may be uttered in one. The English circumlocution, 'and he said to me,' would be expressed by the Hebrews in a single term; and as a still more remarkable example of this peculiar brevity and force, they might utter in one word the whole English sentence, 'as he has given to me.' It is no wonder that with such a language they could be sublime; and how much of their sublimity must necessarily evaporate in a translation!

Again, they have but two tenses, and the first may be used indifferently for past, present, and future; yet without creating obscurity in the sense, or want of exactness in expressing the nicest shades of meaning. This change of tenses gives an astonishing vividness to their poetical composition, and converts their very history into poetry. If they prophecy a future event, it is present; if they relate a past one, it is also present. Everything breathes, moves, is a living reality, in the mind, and is clothed with life in the expression.

In order fully to appreciate the beauty and understand the meaning of the Hebrew poetry, it is absolutely necessary for the reader to be acquainted, not merely with the language in which it is written, but with the sources from which its imagery is drawn. His mind should be imbued with an atmosphere of Orientalism. By the study of the history, climate, scenery, manners, &c. of the Hebrews, he should become so familiar with every thing relating to their modes of life and feeling, as to be able, when reading their compositions, to read them with something of that general state of mind in which they were written. It is the duty of every student in Theology, at least, thus to prepare himself for their examination. Yet it is a rare circumstance to find an individual, who gives to this study its due weight and its proper place. An adequate knowledge of sacred geography and of Oriental customs is uncommon; and there are some students, who nobly appreciate the importance of a constant perusal of the scriptures for the acquisition of their spirit, spending hour after hour in the devotional contemplation and study of divine truth, yet strangely neglect that other part of

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discipline and duty, and never think of consulting Bochart, Niebuhr, Calmet, or Reland.

To the prevailing disregard of such a method of studying the Hebrew scriptures was added, till the latter part of the last century, a very general ignorance of their real nature. If it was known that such a thing as Hebrew poetry existed, yet the prophetic writings were never believed to belong to its department, and no one had attempted to point out its peculiar characteristics, till Lowth applied himself so successfully to the investigation of this subject. Before the appearance of his volume, scarcely any thing had been accomplished in the whole wide range of sacred literature which it occupies. The English theologians had confined their labors principally to the preparation of paraphrastical commentaries on the Sacred Books, which, however calculated to edify the devout reader, were admirably adapted to conceal the want of profound investigation, and to make both writer and reader satisfied with superficial views. These had been very generally translated and imitated in Germany; for it was not till after this period, that the German mind was roused to those efforts in biblical learning, which have since produced such astonishing results. Singular as it may seem, it was undoubtedly Lowth's work, which gave the first impulse to these studies in that country, and animated a whole host of profound scholars to follow in his train. This is nobly acknowledged by the Germans themselves. 'Let no man forget,' says Eichhorn, 'what he was for his own age; how beneficial was his influence upon his contemporaries; that we have become what we are, in part at least, by his aid; and that he has helped us forward many steps by his investigations and masterly example.'

The previous critical investigations of the most learned biblical scholars, both in England and on the continent, had been principally confined to the classification and comparison of manuscripts, and the settlement of the scriptural text. Such had been the profound and patient researches of Cappell and Carpzof, Walton, Wetstein and Mills. Father Simon, in France, had nobly distinguished himself in the critical history of the sacred text and interpretation. Glassius went far beyond his own age in his volume on the style and literature and interpretation of the Old and New Testaments. Bochart, a country-parish minister in France, had published works on sacred geography and natural history, which continue to be

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the great sources of real learning on those subjects. English scholars had also, incidentally as it were, distinguished themselves by an acquaintance with the literature of the Bible, and the manners and domestic life exhibited in it. Such were Selden, Milton and 'the very learned Hyde.' But the whole field of Hebrew poetry lay untouched. Lowth was fortunate indeed in being the first adventurer to investigate a region so delightful. While the clergymen of the English church had been profusely lavishing their labors, and seeking every opportunity for the display of their learning, in the explanation of the Grecian poets, they had wholly passed by this mine of inestimable richness. It was left to be explored by a man, whose religion inspired him with better motives than those of merely human ambition, whose modesty kept him from presumption, whose accomplishments in the whole circle of English and classical learning were profound, and whose biblical erudition, especially his acquaintance with the Hebrew language, well qualified him, in this respect, for the task.

Neither an adequate knowledge of the Hebrew, nor any depth of critical investigation would alone have prepared him for a labor at once so erudite and delicate. It required a mind skilled in all the principles of eloquence, and acquainted with the history and philosophy of poetry; a taste refined in an uncommon degree, and a judgment deep, acute and penetrating. Lowth's original genius was of a very high order, and his education had been comprehensive and noble. His intellect was imbued with the richness of the literature of Greece and Rome, and his taste had been cultivated to an exquisite refinement of discrimination. The stores of erudition which he had amassed, never encumbered his mind, nor destroyed its more imaginative susceptibilities. Those rough treasures were all melted down in the fire of his genius, which converted them into brilliant transparencies, and tinged his most laborious acquisitions with the hues of a vigorous and active fancy. In that age, an English education was varied and rich and massive, to a degree, which did not exist in any other country, and which has not existed since in England. The University of Oxford especially, which was the Alma of Lowth, laid the ground-work deep and radical, in the knowledge of the ancient classics. Eichhorn refers to this, as the grand reason why the English scholarship of that age was so much more rich and beautiful, if not more profound, than that of the Germans. It is this also,

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in a great measure, which gave its grandeur and massiveness to the earliest and best age of English literature. The habit of such an intimate study of that most perfect of all languages, the Greek, as would enable the youthful student to write it with ease and accuracy, communicated to the native style of the great English writers of that day a rich copiousness in language and a nobleness in the construction of sentences, which has almost passed from existence. To the discipline of Lowth's mind, in the composition of both poetry and prose in the ancient languages, must be attributed in a great degree the majestic elegance and dignity, which his own style certainly possessed.

Its energetic spirit, both in language and thought, are to be traced not merely to his classical education as its origin, but to another source. For while the classical attainments required in a course of liberal study at that day, were broader and deeper than in ours, the discipline in other branches of science, and in the noble, native literature of Great Britain, was proportionably vigorous, original and varied. Such minds as Lowth's and Burke's and Johnson's were formed upon the study of a native literature, strong and magnificent in its cast. They were formed by an intimate communion with men such as Milton, and Hooker, and Leighton, and Barrow, and Chillingworth, and Taylor, and Stillingfleet, and Usher, and Selden and Hyde; and, we might almost say, a host more like them—men of comprehension and energy, from whose writings wisdom and learning were dealt out to their readers in whole ingots, instead of being beaten into gold leaf, or frugally scattered here and there in parsimonious grains—men of gigantic intellectual grasp and sublime fancy—mighty in reasoning, and not less powerful and grand in imagination—men, too, in whose souls the agitating circumstances amidst which they were born and nurtured, had conspired to nourish a republican freedom and firmness of thought, and a range of sentiment elevated far above any thing insignificant and mean. Can we wonder that scholars like Lowth have disappeared, when the iron cradle, in which their genius was rocked, has been laid aside for the silken swaddling-bands of Addison and Blair? It is a favorable indication in the spirit of the present age that a taste for those old and noble writers, on whose model such as he were formed, is beginning to return among us

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It is a remarkable circumstance, that Lowth entered on his task, not as a biblical critic, nor in his province of theologian; but as professor of poetry at Oxford. He chose the Hebrew poetry as the subject of his first course of lectures, after the example, as he tells us in a happy classical allusion, of Socrates; who began his musical studies by composing a hymn to Apollo, because he thought that the first fruits of his poetry ought to be consecrated to the immortal Gods, and that it was not lawful for him to descend to lighter subjects, before he had discharged his obligations to religion. He chose it because almost every common path had been trodden by his predecessors in office, while this afforded a field of investigation altogether original, and most grateful to his fine taste and religious disposition.

It was his object in the execution of his plan, to develope the beauties of the Sacred Poets in a view, which should arrest the attention of his hearers, and lead them to the farther prosecution of a study so full of profit and delight. To his pupils the subject was altogether novel. They had been conversant principally with the poetry of Greece and Rome; and it was at that day the prevailing habit, to criticise all poetry according to the models of the ancient bards and the laws of ancient critics. In France, there was no such thing known as a simple and natural perception of poetical beauty, or a truly philosophical and unconstrained manner of poetical criticism. And even in England, the examples of Milton and Shakspeare had hardly yet superseded the dogmas of Aristotle and Longinus, or brought critics to consider, that there might be other models beside those of Homer and Virgil, Euripides and Sophocles. It was therefore very natural for the Oxford professor, in pointing out the peculiarities and the beauties of the Hebrew poetry to the admiration of his audience, to measure its excellence and illustrate its merits by comparison with that standard, to which they had so long been accustomed to refer. He proceeds to divide it into the various technical departments,—the lyric, the elegiac, the didactic, the pathetic, &c.—where the Hebrew poets never thought of such a division, nor wrote with the most distant design of making it. It should have been treated, as far as possible, with a forgetfulness of all other models, and a disregard of all pre-established rules; as apart, distinct, peculiar—just as if there were no other poetry in the world. Still, we should be sorry to have lost his

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discriminating criticisms on the poetry of Greece and Rome, and the exquisite selections, which he produced to adorn and illustrate his work.

In its progress, he found occasion to draw from all his resources of invention, learning and illustration. He displayed a vivid imagination, mingled with richness of thought and gentleness of feeling, a keen perception of poetical beauty, a power of philosophical criticism, and as great ease in the use of the Latin language, as if it had been his vernacular tongue. The purity and beauty of his Latin prose style has hardly been surpassed since the age of Augustus. Unfit as that language is for the purposes of acute and refined criticism, his felicity in adapting it to the expression of his ideas is remarkable. In reading the English translation by Gregory, the impression is left on the mind of the reader, that Lowth's style is deficient in definiteness and appropriate richness of language. Every one, who is acquainted with the power and beauty of Lowth's writings in his native tongue, must regret that he did not originally compose the Lectures in the English language. They would then have been a noble specimen of idiomatic beauty of composition, as well as a model of just and delicate criticism. As it is, the defect in the English dress is to be attributed to the translator, whose own style of writing was clumsy and unimaginative.

The example of Lowth in this great work pre-eminently shows, how much may be accomplished simply by the patient study of the scriptures. With the cognate dialects of the Hebrew he was perhaps totally unacquainted; nor was he very intimate with the peculiarities of the Oriental world. Yet by the persevering study of the Old Testament he attained a profound knowledge of the Hebrew language; and his discriminating judgment, exquisite taste, and acquaintance with the Hebrew history and antiquities, prevented his criticism from ever becoming loose, indefinite or extravagant, and made him successful in discovering the sources of poetic imagery. There is simplicity and truth in most of his reasonings. He makes no parade of learning, either of that which he really possesses, or of the semblance of that whereof he is destitute. There is nothing labored in his conclusions, nothing affected in his sentiments, nothing arrogant or hasty in his remarks; all is free, gentle and candid. He was making discoveries in a region entirely new, yet he does not announce them with the

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bold eagerness of an adventurer, but with the mild philosophy of one who is seeking for truth, and with even a painful sense of the delicacy and responsibility of such an office.

A work so important in its connexions, so novel in its character, and conducted with so much learning, modesty and taste, could not fail to arrest the attention of learned men both in his own country and on the European continent. It opened their eyes on a new scene of the most interesting researches, and formed absolutely a new era in intellectual activity. It drew aside the veil, which had so long concealed the grandeur of inspired poetry, and made it to be relished and acknowledged. It threw new light on the explanation of the Old Testament, and introduced a more acute and correct method in the investigation of the sacred poetical books. His lecture on parallelism,—the peculiar characteristic of the Sacred Poets,—was altogether the work of original genius, and suggested a guide for the interpreter, the various uses of which, in discovering the meaning of particular words, in illustrating different forms of expression, in elucidating the sense of obscure places, and in the general critical examination of Hebrew poetry, cannot be imagined by any one who has not experienced its value. He resumed this part of his subject in the preliminary dissertation to Isaiah, where he went into a more full and minute investigation of the nature and principles of the Hebrew parallelism, than his limits as a lecturer would have permitted him to do. This great peculiarity in Hebrew poetry, from an ignorance of which very many of the errors of commentators and critics have originated, had before been scarcely hinted at. Azarias, in the seventeenth century, made some obscure suggestions in regard to it, but no one understood its nature, or had traced it in the Sacred Books, or attempted to deduce from it any practical utility. Schleusner followed Lowth on this subject with great learning and talent.

Though in itself the fruit of mature judgment and erudition, yet so little is this work encumbered with the heaviness or the display of research, that a reader who is altogether uninformed beyond the compass of his own language (if he have any poetical susceptibilities) will peruse it with the greatest delight. We deeply regret that it is not more known beyond the precincts of the clerical study and the theological institution. Were it as generally perused as its excellence deserves, it would elevate and purify the taste of the whole community. Who

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could endure the prurience and blasphemy of Byron, or the voluptuousness of Moore, after having had but a glimpse of the glorious poetry of the Scriptures? Who would not relish Milton and Cowper with a deeper pleasure, after having himself tasted the richness of the fountain, at whose depths they drank so largely—after having been instructed in the highest principles of an art, which here claims the wisdom of the Deity as its origin?

We have spoken of Lowth's pure and elegant Latinity. He wrote Latin poetry which is hardly surpassed in beauty by that of Horace himself. Of this we have very many examples in the exquisite Latin translations from the Sacred Poets, scattered throughout this volume. There are no English scholars, who have equalled Lowth's attainments in this elegant art, in any degree, but Sir William Jones and the poet Gray. The epitaph on his daughter's tombstone is well known. Nothing can surpass its sweetness and its pathos. She was his first and favorite child.

Cara, vale! ingenio præstans, pietate, pudore,
Et plusquam natæ nomine cara, vale!
Cara Maria, vale! At veniet felicius ævum,
Quando iterum tecum, sim modo dignus, ero.
Cara, redi, læta tum dicam voce, paternos
Eja! age in amplexus, cara Maria, redi.

While Lowth was lecturing at Oxford, the learned Michaelis, then a young student, visited England, and heard him deliver one of his lectures on the sacred poetry of the Hebrews. Not long after the lectures were published in England, Michaelis prepared an edition in Germany, with very copious notes, which was published at Gœttingen in 1758 and 1761. These notes were a treasure of Oriental learning, and supplied whatever deficiency there might have existed in the lectures, arising from the want of an exhibition somewhat more complete, definite, and accurate, of the peculiar manners, climate, scenery, and dialects, of the Oriental world. They were the fruit of original investigations, pushed forward amidst every obstacle, with an energy in the cause of sacred literature, which animated no other man living. There is no scholar, who does not feel indebted to the venerable Michaelis for the accession which he thus brought to the means of illustrating the Hebrew poetry. The expedition which this great man prepared from

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his quiet abode in Germany, to visit the East in search of information that might throw light upon the Bible, has something very sublime in its character. He planned and directed it himself, and drew up a list of questions for its guide, with a sagacity and a depth of knowledge that astonished the *literati* through all Europe. The expedition, though reduced in a few months by death's melancholy inroads from five individuals to one, resulted in the travels of Niebuhr. The discrimination with which Michaelis applied his inquiries to a more judicious and worthy exhibition of the meaning and beauty of the Sacred Poets, evinced a purity of poetical taste, which the admirers of his great learning have overlooked in the enumeration of his merits. When he attempted to write poetry himself, he was not indeed so successful; and was clearly mistaken when he said of himself, that had it not been for a few years' neglect of the practice, he might have written Latin poetry with the same elegance, which he admired, even to enthusiasm, in the translations of Lowth. Some of his notes on Lowth's work contain remarks on the interpretation of the sacred poetry, which are said to have given origin to several of the most splendid works since published in Germany. It may gratify our readers to be presented with the following graphic sketch of the manner of this celebrated Coryphæus of German literature in the lecture-room, drawn by one of his students, Dr. Schultz, of Giessen.

'Very often his glowing imagination, supplied with an inexhaustible fund of knowledge from every department of the sciences, lost itself with his voluble tongue in story-telling and dramatising an event or an argument, wide enough from the point from which he set out, and to which he must again return. The habit of eagerly seizing all sorts of figures and queer allusions and strange witticisms, though they would meet him only halfway in his progress, was constantly leading him off into the wildest by-paths; and then he heard himself talk with such exquisite delight, that at the end of the whole hour, nothing would be left but the gratification of a merry entertainment. In this respect he was particularly irksome to the more cold-blooded part of his students, who were looking for instruction. Whenever his keen eye, which was constantly darting around all parts of his lecture-room, happened to detect a stranger, he was sure to entertain him with a few quaint jests, good in their kind, only a little too evidently introduced for the occasion. As they were mostly derived from law, or from some other science that lay altogether

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without the boundaries of theology and the Bible, they must necessarily have surprised the guest so much the more, and filled him with wonder at the learning of the lecturer. The obstreperous laugh poured forth on occasion of his jokes from the full throats of a hundred of the most thoughtless students, and the complacent smile displayed on the countenances of some ten or fifteen among the more cultivated and intelligent ones, were extremely gratifying and delightful to his feelings. Such, indeed, was the great man's weakness on this point, that he not unfrequently laid himself out with evident and laborious effort to raise the laugh precisely at the close of the lecture; then he would leave the room, as if in triumph, amidst the loud shouts of laughter, and while passing the door, you might see him cast back upon his audience a look, slily, but intensely expressive of his gratification and pleasure.'

Next to Michaelis, though after a long interval of time, came the enthusiastic Herder, with all his vast learning and poetical genius, to the prosecution of this branch of sacred literature. We might lavish a eulogy on the character of this interesting being, as a poet, philosopher, philologist, and critic; and on the merits of his two great works in the department of sacred science, his Letters on the Study of Theology, and his Dialogues on the Spirit of Hebrew Poetry. In himself and in his writings, he has given a fine example of his own *ideal* of a perfect critic on the Hebrew poetry. He criticised the poetry of the Hebrews like one imbued with its spirit. The form of dialogues, which he chose for his work, was adapted to a flow of easy, natural remark, and unrestrained admiration, full of life and vividness, but in reality, the result of patient study and a most profound acquaintance with his subject. We obtain from this work the most exact information, while at the same time we are revelling in poetry. The stores of learning in the mind of Herder were imbued throughout with the subtle spirit of his genius. He wrote this work, it might be said, in tears. Mueller, his bosom friend and the editor of his writings, often found him, when engaged in its composition, weeping like a child, through the intensity of his feelings. The style is easy and rambling, but full of eloquence, and sparkling with poetic imagery. Herder carries us back by the power of his fancy and the truth of his descriptions, into the midst of the ancient Orientals, and surrounds us with the very atmosphere of their life and manners. Like Michaelis, without surpassing Lowth in elegance of taste, he possessed a more intimate ac-

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quaintance with Oriental learning, because twenty-five years had provided new facilities for its attainment.

In 1815 Rosenmueller prepared in Germany a new edition of Lowth's work, to which he added many notes of his own, and corrected the errors into which Michaelis had fallen. Besides these writers, Sir William Jones, Eichhorn, Gesenius, De Wette, and some others, have since the time of Michaelis contributed not a little to the elucidation of this subject.

From all these authors, the American editor of this work has enriched it with valuable selections. He has also added a number of notes, which are entirely original. He has displayed in the execution of his task much sound judgment and research. All the notes he has selected are of sterling value; and those which are the result of his own investigations exhibit originality and learning. We may refer to the note he has given in regard to the Hebrew dialects and poetic diction as one of uncommon excellence, the result of original research. We cannot but express our gratitude for the extracts he has given us from the writings of Sir William Jones. Every thing that came from his accomplished mind is worthy of preservation; but his intimate acquaintance with Oriental languages and literature makes all his remarks on these subjects most precious. We are not sorry to see some of the selections from Rosenmueller and Michaelis, and from some other scholars, in Latin. It is indeed true, that every theological student, and every liberally educated man among us, ought to be able to read with delight a Latin style so easy as that in which most of the Latin notes in this volume are composed. Mr. Stowe has made this work a still richer accession to the library of every literary man, and a still more indispensable requisite for the study of sacred literature.*

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* Mr. Stowe is already known to the public as the translator of Jahn's History of the Hebrew Commonwealth. Shortly after its appearance in this country, this valuable work was republished in England, under circumstances which reflect but little credit on the character of those who superintended its publication. The translator's name was excluded from the title page, and for aught that appeared there, the work might have been supposed to be English. At the close of the preface was the following note: 'In this edition the whole has been thoroughly revised, and such alterations made as seemed requisite to render the author's meaning clear and intelligible. *The American edition indeed was so totally unfit for English readers, as to make this abso-*

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In 1778, Lowth published his translation of Isaiah, with a preliminary dissertation and notes. In this work he displayed the same elegance of taste as in his lectures, with perhaps even more learning. Yet it is remarkable that all his erudition and all his modesty did not save him from errors arising from the boldness of his criticisms. His only fault as a sacred critic was a degree of what Archbishop Secker denominated the '*rabies emendandi*,' or rage for textual and conjectural emendations. The prevalence of this spirit in his work on Isaiah was the only obstacle that prevented its attaining the same rank as a classic in sacred literature, which has been accorded to the Lectures on the Sacred Poetry of the Hebrews. 'If Lowth, as his American editor very justly remarks, with all his genius and scholarship, was betrayed into such errors, when he attempted to improve the text of the Bible by his own conjectures, what can be expected from others, who without his talents and learning, imitate him in his daring spirit of conjecture? It should be remembered, however, to the honor of Lowth, that he usually proposes his emendations with all the modesty and diffidence characteristic of true genius;

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lutely necessary.' Notwithstanding this barefaced assertion, it is perfectly evident that the English editors had not even compared Mr. Stowe's translation with the original work, when they republished that translation in England. Their edition is in substance an exact reprint of the American. In some cases Mr. Stowe had deemed it expedient to deviate from the original; and in all such cases, the English edition followed the American, and not the German. The very typographical errors, such as 1446 for 1466, which had occurred in the American edition, were exactly copied in the English republication;—and of the profound and important nature of the alterations by which the English editor, in *revising the translation*, endeavored to adapt it more peculiarly to English readers, we may judge from the following instances. In the American edition, where Arabic words occurred, they were given in Arabic letters; but in the English edition, the Arabic words were represented by Roman letters; and in one instance the English editors *omitted the Arabic entirely.* Again:—the American edition, speaking of the tithes of the Levites, said, 'the tithes did not amount to any thing like those enormous sums, at which Morgan has arrived by his erroneous calculations.' In the English edition the sentence runs thus: 'the tithes did not amount to any thing near the enormous sums, which Morgan has erroneously *calculated them at!*' Could the English editors have thought that such changes as we have mentioned, occurring on almost every page, would *make the author's meaning more clear and intelligible*, and render the work *more fit for English readers;* or was it their only object to make the English edition different from the American?

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that he wrote before the text of the Bible was settled, and at a time when great results were expected from the collations of Kennicott; that he had the ardent and adventurous spirit of a new discoverer; and that critics at that period had not learned so well as they have since, that patient application is a much surer, though a more toilsome way of coming at truth, than bold conjecture, which costs neither time nor labor.'

We have before spoken of Lowth's general character as a scholar. It is impossible, with the meagre biographical outlines which alone remain to us, to do it adequate justice. Whatever he undertook was so performed, that it left very little to be accomplished in the same routine of study and labor. He gave to England the first regular grammar of his native tongue. We are somewhat surprised that Murray's grammar, which is but an enlarged copy of Lowth's, should so generally have occupied its place; and that too with little acknowledgement to the individual, from whom were derived its plan and most of its materials. Although Lowth's treatise was written so early as the year 1758, yet we doubt whether there is at the present day a single work of equal excellence in the same compass.

The private character of Lowth was not less adorned with all the virtues of domestic life, than his public one with the urbanity, the elegance and the elevated dignity of learning and religion. Even his insolent antagonist, Warburton, could admire his amiable manners and the winning modesty of his whole deportment. In one of his letters to Lowth, he observes, 'It would answer no end to tell you what I thought of the author of Hebrew Poetry before I saw him. But this I may say, that I was never more surprised when I did see him, than to find him of so amiable and gentle manners, of so modest, sensible and disengaged a deportment. It would not have displeased me to find myself ill used by pedants and bigots; but it grieved me to think I had any thing to explain with such a man.' His disposition was every where affectionate and kind; his love to his offspring uncommonly tender. The ties in his family circle were often broken, yet under his severest afflictions he is said to have exhibited the firmness of a christian resignation. His piety was of that kind, which the English church, when her services are not profaned by hypocritical ambition, nor her offices made silken cushions for the repose of a lukewarm indifference, is adapted to foster—it was

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rational and fervid. Whatever situations he was called to fill, and they were various, he was always scrupulously attentive to the performance of his duties. It was, however, in his elevated station as a bishop, that his admirable qualities shone most conspicuously. The rare union of deep learning, true piety, gentleness of manners, modesty and dignity of feeling, fitted him to adorn his office in a pre-eminent degree. England can scarcely show, in all the annals of her history, a dignitary of the church, whose character exhibited a combination in all respects so noble, so delightful. Mild as he was, he had a manly, energetic and independent mind, properly conscious of its own powers, and decided in its convictions. Open and free in his inquiries, he was fearless in the declaration of all his opinions. An advocate himself for the most unrestrained investigation in matters of religion, he was willing to extend to others the same privileges he demanded as his own birth-right. He had that liberality and courtesy of mind, which is founded in real benevolence of feeling. We love to turn from the intolerant arrogance of Warburton and Horsley, to the freedom, the charity, the condescension and the genuine kindness of a man, who demanded no deference to his own opinions merely because they were his, and who could recognise and venerate an amiable heart and a virtuous life, though they existed in combination with what he thought erroneous opinions. He had no bigotry; his firmness was conciliating as well as steadfast; mild, indeed, and devoid of bitterness, but much more likely to remain unshaken, than that of more turbulent, haughty, domineering prelates.

Wherever he appeared, he diffused around him a benign influence. In his countenance, manners and whole deportment, benevolence was united with dignity; a union which made his inferiors unembarrassed in his presence, his equals familiar and affectionate, his superiors respectful and courteous. His own politeness, though it had all the elegance of courts, was not born there; it was that of kindly feelings, chastened and not destroyed in the collision and intercourse of society—the politeness of the heart, to which the refinement of places could add nothing. He was altogether a being of a superior order. But his intellectual and moral nature had been finely disciplined and developed; and neither apparently at the expense of the other. His rich and varied attainments as a classical scholar gave a remarkable elegance to his mind, and his soul

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seemed to have imbibed in no small degree the spirit of simplicity and grandeur belonging to the sacred literature, which he had so deeply studied. He was, indeed, as the venerable Eichhorn styled him in a heartfelt tribute to his memory, a noble Briton;—noble, for the extent, and depth, and modesty of his learning, for his dignified independence and liberality of mind, for his gentleness of mien and generosity of feeling, and above all, for the value which he set upon the noblest prerogatives of his being.

His name is one of those, to which England owes much of her literary glory, without acknowledging from whence it is derived. Volumes upon volumes have been lavished upon memoirs of ordinary men, and reviews upon reviews have been dedicated to the memory of far inferior characters, while that of Lowth, than whom scarce another Englishman could be mentioned, whose name is more venerated on the European continent, has been left to the meagre skeletons of Cyclopedian biographies, or to such a clumsy notice of his life and writings, as the reader may chance to stumble upon in the British Nepos. It is surprising how little the English public, even at this day, when antiquarian and literary curiosity are pushed beyond the limits of useful inquiry in almost every field that can be imagined, are acquainted with the character and labors of this admirable man. Do we err in supposing that the church of England would hardly yet have discovered the merit of his Lectures on the Hebrew Poetry had not Michaelis received their appearance with such enthusiastic congratulation, and excited his own countrymen to follow on in the path, which he had opened? As it is, the church has profited by his labors, without even paying to his character the tribute of a merited applause. He sleeps by the side of Selden, another pillar of English greatness, in the same comparative obscurity and neglect. He is not the only venerable patriarch of English literature, upon whose ashes they that are younger than he have arisen to unmerited distinction. Yet it is not even now too late, and we could wish that some true admirer of his character and genius might leave for a while the task of settling the text of Aristophanes, or writing commentaries on Apollonius Rhodius, or making a book for the Cabinet Cyclopedia, and set himself in earnest to collect the memorials that are fast passing away, and exhibit some tolerable record of his life, some worthy delineation of his merits and his labors.

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ART. V.—*Lawrie Todd; or, The Settlers in the Woods.* By JOHN GALT, Esq. New York. 1830.

This book is replete with profound practical wisdom, conveyed in a vigorous and massy style. This is a high character to give of the story of a nail-maker, who is finally elevated to the rank of a shop-keeper, and land-jobber in the interior of New York; but we think it is, nevertheless, a very just one, and we are the more pleased with the author, for the reason that he can, without the help of moving incidents by sea or land, or the pageantry of fashion or rank, but by merely following an every-day character through a series of every-day fortunes, with only here and there a slight stretch of probability, invest with a moral and philosophical dignity, and a poetical interest, the passions, motives, interests and endeavors, that from day to day move and trouble the veritable world. Fictions so written are more true than history, and no less instructive than experience, and it is only to the least reflecting minds, that they are dry and barren; to such minds, as to those of children and uncivilised men, purple robes, burnished armor, gorgeous pageants, and showers of diamonds and pearls, are subjects of a more lively admiration. These toys excite the imaginations of the frivolous, who do not perceive that the lily, in its array of beauty, surpasses the glory of Solomon. Rank, power, and wealth, like dress, are something exterior and incidental to the man, whose mind, manners, sentiments, passions, and moral qualities, are, after all, the true and worthy objects of a generous interest; and whether they are exhibited in a high or humble station, are still a part of that human nature, which concentrates all that is permanently interesting in this world. In a story, therefore, whether it be history or fiction, whether the purpose be entertainment or instruction, the material question is, not how fashionable, rich, or powerful are the actors, or how much space they fill in the world, but what are their qualities and characteristics.

Mr. Galt has a way of conducting his plot, peculiar to himself, or rather he has no plot at all, for there is, in his stories, no concentration of action and incident to any particular consummation, at which the interest terminates. The reader is not borne along and absorbed by a continually increasing curiosity and anxiety, that put him upon the rack,

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until he is reprieved by the happy turn of things, or knows the worst, and acquiesces in the decrees of destiny, as recorded by his author, with a becoming resignation. Mr. Galt's scenes, though more or less blended, are by no means woven together in one series of action, with a uniform tendency, disguised until the *denouement* explains all; but they are detached, in a great degree, in interest, and in the main are not linked as causes and consequences. The principal connexion in the incidents consists in their happening to the same persons. We do not mention this as a material defect in his stories, *nor* as indicating any want of talent in the author; for of all the causes of interest in a tale, the mere curiosity to know the end is the most ordinary and superficial, and it is quite a subordinate achievement of genius to accumulate obstacles, and carry the actors further and further from the haven, until by a lucky change of the wind, they make the port under full sail. It is one of the surest indications of talent, to be able to keep up the reader's excitement, without distressing him with too great an anxiety about the catastrophe. A journey is more interesting when the way is beguiled by successive incidents, which commence and end independently of each other, than when all the hopes and fears, pleasures and pains, relate to the accommodations of the inn at which it terminates. Mr. Galt's stories are remarkable for the thickly-crowding incidents, the prominent and striking characteristics of the personages, the reality of the sentiments, and the force, and occasionally pathos of the style. His reflections are usually just, and his thoughts often original, with an uninterrupted facility and buoyancy in the progress of the story, but not without occasional freedom in the language and incidents, a little alarming to fastidious readers; for the author seems to be by no means inclined to balk his narrative, or to suppress a good thing from excessive scrupulousness.

Mr. Galt professes to write this story for instruction, no less than amusement; it being, as he says, a shadowy and subdued outline of the history and localities of Rochester, in New-York; and he remarks in his introduction, that 'a description, which may be considered authentic, of the rise and progress of a successful American settlement, cannot but be useful to the emigrant, who is driven to seek a home in the unknown wilderness of the woods.' The emigrant, in this case, is the son of a poor, but industrious Scotchman, of Bon-

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nytown, 'who, with hard labor, constancy, and the fear of God, followed the trade of a nail-maker; a presbyterian of the old leaven of the covenant.' Lawrie, his son, began existence with very slender promise of its blessings, being long sickly and crippled, from neglect in his infancy. By virtue, principally, of sunshine and exercise, for his diet seems to have been very scanty, he at length became a brisk nail-maker, and a sturdy, though *wee* debater in the republican society of some dozen and a half boys, who proposed to introduce the French revolution into Scotland. Lawrie professes to have been an eloquent spouter, with the prospect of becoming a finished orator in this patriotic body, when the officers of justice put an end to all their bright visions of parliamentary reform, and the restoration of the unalienable rights of man, by marching them off to Edinburgh. Our young reformer's patriotic exultation was not at all heightened by the exclamation of an old woman, as he was, with the rest, paraded along the streets of the city, 'Losh preserve 's! But the king maun be a coward, if he 's frightened for sic a modiwart,' (meadow-mole.) He had the good fortune to escape from this peril of life and limb, after being complimented by the king's advocate with the appellation of 'ragged scarecrow,' and he survived to serve his country again in the manufacture of wrought nails.

Having arrived at the momentous period of life, which transforms boys into men, he and his brother took passage for America in the good ship *Providence*, then lying at the port of Leith, having for outfits a chest of *things*, their father's blessing, and twenty shillings apiece. Thus, excepting Scotland, which they left behind, they had the world all before them, where to choose their place, not of rest, but of labor in nail-making; but, 'like Adam and Eve, when driven out of the garden of Eden, they had Providence for their guide, as that solemn-sounding gong of the Gospel, John Milton, bears testimony.' On coming to anchor in the harbor of New York, on the 16th of June, A. D. 1794, about ten o'clock in the morning, with three shillings and sixpence of their patrimonial outfit remaining, they began to collect information respecting the business of nail-making in the new world; but their hearts were 'struck with a snow-ball,' when they were told 'that a machine for cutting nails out of iron hoops had been recently set up, by which the Americans were of opinion they would soon have the supplying of the whole world with nails.' Their spirits

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were cheered up, however, by proposals for employment, one of which they accepted, and they soon found themselves hammering their way in the world with great activity.

Our young hero, and his *Fidus Achates*, proceeded very prosperously in their vocation in the nail-making line, until one morning Lawrie met in the street a young lady 'about five feet seven inches' high, with 'a pale face, erect carriage, slow solemn step, in a small black beaver-hat, with two cords on each side to turn up the brim enough to show her ears, and long flaxen hair;' to wit, the future Mrs. Todd; so that what with nail-making a-nights, tending a small grocery by day, and courtship into the bargain, Lawrie had business enough on his hands; two branches of which, however, he proposed to merge in matrimony; namely, the courtship and the retailing, which latter was to be transferred to Miss Rebecca, after her transformation into Mrs. Todd. The ceremony of her baptism is very well described.

'When I beheld her tall, slender, and erect form, with slow and measured steps, move up the middle aisle, dressed in a white robe in maidenly simplicity; when I saw her stand serene in the midst of a vast congregation, and give the regular tokens of assent to the vows which Dr. Mason, in a solemn and affecting voice, laid upon her, while all the congregation seemed hushed in the stillness of death; when I saw her untie the black ribbon under her chin that held on her hat, whilst the minister was descending from the pulpit to administer the ordinance; when I saw her hands hanging straight by her sides, one holding her hat, and the other a white handkerchief; when I saw her turn up her face to Heaven, and calmly close her eyes as the minister prepared to pour the consecrated symbol of grace; and when I saw her wipe the pearly drops, I thought that her gentle countenance shone as with a glorious transfiguration, and I swore in my heart, that with the help of the Lord, nothing but death should part us.' p. 33.

The author gives his principal character very deep religious impressions; he is devoutly persuaded that all his fortune, particularly his adversities, are especially ordered for his good; and much interest and beauty are given to this part of the story, by tinging the clouds of misfortune with the rays of religion. The prevalence of the yellow fever, and the death of Rebecca after the birth of a son, give occasion for the display of his deep moral sentiments and strong religious faith,

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which are maintained through the book, and at the same time blended with sufficient temporal sagacity. The author shows an intimate observation of human nature, in exemplifying in his principal character, how strong and sincere religious opinions and sentiments may be unconsciously modified and accommodated to the circumstances and interests of the person, by whom they are entertained.

A personage is next introduced, upon whom the author seems to have bestowed some pains, namely, Mr. Zerobabel L. Hoskins, who was 'in his way, something of a Yankee oddity.' The general conception of this character is a little out of the common course, but he is ably sustained through the story, and though a caricature, is not so unlike any man that ever lived in this world, as to be entirely a figment of the author's brain. Having accidentally formed an acquaintance with our hero, Zerobabel politely proposes to supply the place of the deceased Rebecca by giving him in second nuptials his niece Judith; and after some amicable negotiations, the arrangement takes effect. We are afterwards carried through the adventures of the grocery business, the seed business, and the Jersey farm, to the catastrophe of Lawrie's concerns in New-York during the embargo and non-intercourse, when he is entirely ruined, and obliged to surrender at discretion to his creditors. His uncle Hoskins generously comes to his aid at this crisis, and supplies him with the means of beginning the world again.

He now proceeds to the new settlements, to which his attention was called by Mrs. Micklethrift, on board a North River steam-boat, who gave him much good advice in regard to emigration, particularly recommending to emigrants not to encumber themselves with chests of drawers and other cumbrous articles of furniture in their migration into the wilderness. Accordingly we soon find Lawrie lodged in the forest, fifteen miles from the nearest settlement, and, as we are to suppose from the preface, somewhere about the region of the present town of Rochester. This new settlement, being the nearest approach yet made by civilization towards their proposed 'location,' might, it seems to us, be the subject of a more graphic and distinctly colored description, than that given by the author.

'Of all the sights in this world the most likely to daunt a stout heart, and to infect a resolute spirit with despondency, that of a newly-chopped tract of the forest certainly bears away the bell. Hundreds on hundreds of vast and ponderous trees covering the

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ground for acres, like the mighty slain in a field of battle, all to be removed, yea, obliterated, before the solitary settler can raise a meal of potatoes, seemingly offer the most hopeless task which the industry of man can struggle with. My heart withered as I contemplated the scene, and my two little boys came close to me, and inquired with the low accents of anxiety and dread, if the moving of these enormous things was to be our work. Fortunately, before I had time to answer their question, a sudden turn of the road brought us in sight of the village, where the settlers in all directions were busy logging and burning. The liveliness of this spectacle, the blazing of the timber, and the rapid destruction of the trees, rendered, indeed, any answer unnecessary. They beheld at once, that so far from the work being hopeless, the ground was laid open for tillage even, as it were, while we were looking at it, and we entered Babelmandel reassured in all our hopes.

'The village as yet consisted but of shanties and log-houses. The former is a hut or wigwam, made of bark laid upon the skeleton of a rude roof, and is open commonly on the one side, nigh to which, during the night, the inmates who sleep within, raise a great fire to keep themselves warm; some say to protect them from wolves and other wild beasts. Notwithstanding the rough appearance of the shanty, it yet affords a shelter with which weary axemen are well content. I never, however, had a right solid sound sleep in one, for, as they are open, I had a constant fear of snakes crawling in upon me; nor was it imaginary, for that very night, the first we passed in Babelmandel, the boys and I being obliged to make our bed on hemlock boughs in a shanty, had not well composed ourselves to rest, when Charley, the youngest, felt something like a man's finger wimbling in under his neck, and starting up, beheld a large garter snake twisting and twining where he had made his pillow. We were pacified in our alarm, by an assurance that it was of a harmless kind, but truly it will be a long time before I am satisfied that any serpent can ever be a commendable bed-fellow.' pp. 82, 83.

Our emigrant, having penetrated into the woods with his two boys, erected a cabin on a rising ground near the margin of a river, and within a short distance from a shanty, occupied by a number of backwoodsmen, who had embarked in the same enterprise. Having thus got a substitute for a house over his head, and kindled a fire, Lawrie began to have a foretaste of a very comfortable night; but

'About three o'clock the skies were dreadfully darkened and overcast. I had never seen such darkness while the sun was

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above the horizon, and still the rain continued to descend in cataracts, but at fits and intervals. No man who had not seen the like, would credit the description.

'Suddenly, a sharp flash of lightning, followed by an instantaneous thunder-peal, lightened up all the forest; and almost in the same moment the rain came lavishing along as if the windows of heaven were opened; anon, another flash and a louder peal burst upon us, as if the whole forest was rending over and around us.

'I drew my helpless and poor trembling little boys under the skirts of my great coat.

'Then there was another frantic flash, and the roar of the thunder was augmented by the riven trees, that fell cloven on all sides in a whirlwind of splinters. But though the lightning was more terrible than scimitars, and the thunder roared as if the vaults of heaven were shaken to pieces and tumbling in, the irresistible rain was still more appalling than either. I have said it was as if the windows of heaven were opened. About sunset, the ground floods were as if the fountains of the great deep were breaking up.

'I pressed my shivering children to my bosom, but I could not speak. At the common shanty, where there had been for some time an affectation of mirth and ribaldry, there was now silence; at last, as if with one accord, all the inhabitants rushed from below their miserable shed, tore it into pieces, and ran with the fragments to a higher ground, crying wildly, "The river is rising!"

'I had seen it swelling for some time, but our shanty stood so far above the stream, that I had no fear it would reach us. Scarcely, however, had the axemen escaped from theirs, and planted themselves on the crown of the rising ground nearer to us, where they were hastily constructing another shed, when a tremendous crash and roar was heard at some distance in the woods, higher up the stream. It was so awful, I had almost said so omnipotent, in the sound, that I started on my feet, and shook my treasures from me. For a moment the Niagara of the river seemed almost to pause—it was but for a moment, for instantly after, the noise of the rending of mighty trees, the crashing and the tearing of the uprooted forest, rose around. The waters of the river, troubled and raging, came hurling with the wreck of the woods, sweeping with inconceivable fury every thing that stood within its scope—a lake had burst its banks.

'The sudden rise of the water, soon, however, subsided; I saw it ebbing fast, and comforted my terrified boys. The rain also began to abate. Instead of those dreadful sheets of waves which fell upon us, as if some vast ocean behind the forest was

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heaving over its spray, a thick, continued small rain came on, and about an hour after sunset, streaks and breaks in the clouds gave some token that the worst was over—it was not, however, so; for about the same time a stream appeared in the hollow between the rising ground to which the axemen had retired, and the little knoll on which our shanty stood; at the same time the waters in the river began to swell again. There was on this occasion no abrupt and bursting noise, but the night was fast closing upon us, and a hoarse muttering and angry sound of many waters grew louder and louder on all sides.

'The darkness, and the increasing rage of the river, which there was just twilight enough to show was rising above the brim of the bank, smote me with inexpressible terror. I snatched my children by the hand, and rushed forward to join the axemen, but the torrent between us rolled so violently, that to pass was impossible, and the waters still continued to rise.

'I called aloud to the axemen for assistance; and when they heard my desperate cries, they came out of the shed, some with burning brands, and others with their axes glittering in the flames; but they could render no help: at last, one man, a fearless back-woodsman, happened to observe by the fire-light a tree on the bank of the torrent, which it in some degree overhung, and he called for others to join him in making a bridge. In the course of a few minutes the tree was laid across the stream, and we scrambled over, just as the river extinguished our fire, and swept our shanty away.

'This rescue was in itself so wonderful, and the scene had been so terrible, that it was some time after we were safe, before I could rouse myself to believe I was not in the fangs of a nightmare. My poor boys clung to me as if still not assured of their security, and I wept upon their necks in the ecstacy of an unspeakable passion of anguish and joy.' pp. 86, 87.

The truth of this description is but too well attested by the details given in the public prints of the recent disasters of a similar kind in Vermont. Having escaped this danger by flood, and made preparations for the coming winter, the settlers of Babelmandel—for this was the name of the new settlement—were in danger of a blight of all their fair hopes, by the no less destructive element of fire. Lawrie Todd had just constructed his house, and brought his wife and children to participate in the privations and hardships and hopes of the back-woods. While they were in the act of celebrating this event in their domestic devotions,

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'A sharp, shrill shriek, wild and piercing, came from the village; imputing it to some frolic among the younger settlers, I heeded it not; it disturbed not the earnestness of our devotion. In less than a minute after, a similar cry was repeated, and caused me to pause in prayer. This was followed by a terrible hissing, hurrying, and crackling noise, something like the rushing sound of many sky-rockets, but immeasurably greater, followed by a hundred vehement voices, screaming "fire!" Starting from my kneeling, I ran to the door in alarm, scarce conceiving what the cry of fire in the wilderness could portend.

'The woods were on fire! The scene of horror was at some distance behind the house, but the remorseless element was rising and wreathing in smoke and flame on all sides. The progress was as a furious whirlwind; to arrest, or to extinguish, seemed equally impossible.

'The unfortunate settlers were flying in all directions with their moveables; but the fallen leaves, kindled by the fiery flakes that fell showering around, intercepted their flight, and obliged many to abandon their burdens; for, as with the Egyptian hail, fire ran along the ground: sometimes the flames ascended with a spiral sweep at once from the roots to the topmost boughs of the loftiest trees; at others they burst out in the highest branches at a distance from the general burning, as if some invisible incendiary was propagating the destruction. Aged trunks of hollow elms and oaks took fire within, and blazed out like fountains of flame; and all around the sound, like the rage of a hurricane and the roaring of seas upon a shallow shore, grew louder and louder.' pp. 94, 95.

The settlement, however, in consequence of a change of wind, escaped the danger, and the settlers were benefited, instead of being injured, by the conflagration, which assisted them to clear away the forest, and bring their lands into cultivation; though Lawrie was less fortunate than the others, in one respect, for his new *framed* house caught fire and was consumed. But he plucked up courage, and, with the help of his neighbors, built another, in which he was enabled, after all, to keep the winter at bay.

The next disaster was a domestic affliction, which he learned on returning home from the neighboring settlement of Olympus.

'As we approached the shanty, I discovered a light, which did not surprise, but it grieved me, for I augured from it that the child's sufferings had not been mitigated. As we, however,

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drew near, I saw it was a short distance from the shanty, under a large elm, which then stood near the spot where the rivulet falls into the river, and that there was no one in the shanty but Robin, with his arm under his head, asleep; to which, poor lad, he had, no doubt, been soundly invited by his day's hard labor.

'The candle was burning in a niche, scooped for the purpose, in the trunk of the elm, and between us and it I discerned a small rude shed, covered with bark, forming a canopy over a little bed covered with a white towel. My child was dead, and her mother, with the other two sorrowful girls, were sitting in the shadow of the tree, watching the corpse, and wearying for my return.

'As I came close up to them, two men, armed with guns, came from behind the tree. Amidab Peters was one, and a settler, whom I did not know, the other. After speaking a few words of condolence to my wife, I expressed my surprise to Amidab at seeing him there at that time of night and armed, thanking both him and his companion for their attention, and saying I would watch the remainder of the night myself.

'"But one," said Amidab, "is not sufficient; it will require two, for we have already been twice scared."

'"Scared!" cried I, "by what? who have we to fear?"

'"The wolves," replied the stranger, "they scent the dead afar off. We had not been here more than ten minutes, when one looked at us from the other side of the rivulet; we saw him plainly in the moonshine, and scarcely had we frightened him off, when we heard another howling from the opposite bank of the river."' pp. 98, 99.

We pass over the installation of the schoolmaster, Herbert (a well-imagined and well-sustained character), Lawrie's being lost in the woods, and other incidents in the progress of the village, and hasten forward to meet our old friend, Hoskins; who is by this time on a visit at Babelmandel for the winter, during which a bear also makes a visit to his new neighbors, and is very near making an end of Hoskins, and ruining the whole plot of the story; but, as it happens, the story is the better for the adventure, and Hoskins, though a little the worse for too hearty an embrace of the new visitor, yet, by the help of his good fortune and Lawrie Todd, armed with an axe, gets off without any mortal hurt, and claims the bear's skin as his trophy.

An arrangement is now made between the uncle and nephew for opening a shop in common, and affairs at Babelmandel begin to wear a promising aspect. Those of the story

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are no less prosperous, for it gains an accession of two new characters, in Mr. Baillie Waft, the perpetual tormentor, in a small way, of Mr. Todd, to the end of the chapter, and Mr. Bell, the minister, a powerful preacher, and, at the same time, a gloomy man, of fierce passions, which finally degenerate into a perverse and wicked insanity. Each of them is out of the common course, original and striking, and they are both in general very well managed, and contribute materially to the interest of the story; to which we must refer our readers for a more particular acquaintance with them, as we have only room to notice in detail the adventures of the leading personage.

The affairs of the shop being put in train, the stirring, adventurous old uncle began to range about the forest day after day. 'Can the old gentleman be looking for a gold mine?' said Mr. Todd to himself. At length a pleasure party of the men, women, and children down the river is projected, and a canoe is shaped and hollowed from the trunk of a large tree for the purpose. But the excursion, as often happens in similar cases, proved any thing but a party of *pleasure* to Lawrie, who was haunted during the whole day with the portentous import of a dream of Baillie Waft, of which he knew nothing, excepting that the Baillie had had a dream. 'I have had a dream,' said the Baillie, as the canoe pushed off from the bank, to which Lawrie gave little heed, but the canoe no sooner began to descend the current, and the delights of the excursion along the winding and gloomily shaded channel to commence, than 'I have had a dream,' echoed to his sensorium. What could it be? Something ominous certainly; and he had half a mind to paddle back his bark to unfold the mystery, and learn with what dire fates it was freighted; but the current had by this time borne him out of sight and hearing of the ominous prophet, and he was now too far drawn into the vortex of his destiny to recover himself. He must push forward and learn the dreadful secret by experience, with '*I have had a dream*,' ringing in his ears, during the melancholy intervals of his party of pleasure.

And the Baillie's dream was to some purpose, for they had scarcely proceeded thirty miles in their swift career of delight, under the 'boundless contiguity of shade,' when the steep rocky banks on either side began to pass by them, up-stream, with a quiet and quick rapidity, and the canoe seemed to be seeking the goal of its course by the irresistible impulse of

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some mysterious instinct. They had glided a short time with this facile celerity, when the deep-rolling thunder of the cataract below interpreted the Baillie's dream, and revealed to them their fate. They could not resist the current, and by veering towards either side, they would only reach a steep impracticable bank. There is, however, a ray of hope, for Lawrie has, at this crisis, but just got past the middle of the first volume; they might else have gone over the falls. The destiny of the story predominated over the boding of Baillie Waft's dream, in this way: the stream, which seemed to be made for their destruction, had been long undermining a tree on the nearer bank, at some distance below, which, very opportunely for them, just then gently swayed over into the current, still hanging by the roots, on which they had hardly escaped to *terra firma*, when both the tree and the canoe were whirled away in the swift destruction, which had been all but prepared for themselves.

In the course of this adventurous expedition they discover an admirable situation for a new town and determine to found a settlement upon it. Their plans are, however, suspended for a short time by the sickness and decease of Lawrie's wife, which gives occasion to one of the best wrought scenes in the book.

'The fever continued to rise, and on the morning of the fourth day after the departure of Charles and Mrs. Hoskins, Dr. Phials, the medical man, warned me to look for the worst. Although I had watched the progress of the calamity with an apprehensive heart and an eager eye, I was yet greatly shocked at hearing this, and spoke to her uncle about getting the family brought to see her; but he would not hear of it, because of its uselessness, and the expense. He was a man that had more consideration for the common sense of matters and things, than for delicate sensibilities. But for all that he had a sterling heart, and did every thing in his power to lighten my anxiety.

'"I ain't," said he, "slick at the gruelling of sick folks, but I can ride and fetch doctor's stuffs," as he really did; for, one morning, he borrowed a horse from Mr. Hopper, the miller, and rode seventeen miles for a supply of Jesuits' bark, which could not be obtained nearer: and he waited on, with great patience, to see the upshot of the fever, saying but little to me of his projects while the life remained.

'At last, the signals of dissolution began to increase, and hope was banished; but I will not ask the courteous reader to partake

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of my distress, though an inward and parental sorrow it was, causing me to grieve more on account of the helplessness in which my two young daughters were to be left motherless, than for the loss I was myself to experience. It was not like the anguish that pierced my heart with barbed shafts, when the beautiful spirit of the beloved Rebecca was wafted away into the regions of light and love; but it was a black and heavy sense of a calamity, admonishing me to summon up my fortitude, and to bow the head of resignation to the will of Him that giveth and taketh away.

'The time of departure was visibly come. It was about two hours after sunset. The patient wrestled strongly against being carried so suddenly away, for she knew her condition, and often in her struggles cried piteously for her children, stretching out her arms as if she saw them standing by. Hers, indeed, was a parent's heart; and the landlady, being of the Methodist line, was disturbed that she should seem to think more of her forlorn daughters, than of the glories of the paradise on which she herself was about to enter—but Mrs. Petrekins had never been a mother.

'Sometimes the victorious adversary of life paused, as if wearied with the contest, and prostrate nature on those occasions seemed to rally, but the intervals of respite grew shorter and shorter. The helps were no longer administered, for they could not mitigate her sufferings. We stood round the bed watching and silent, as feebler and feebler the flashes of the burnt-out candle were sinking in the socket.

'With the last, she turned to the old man, saying, "Be kind to my babies," and drawing a long deep sigh, lay still forever.

'During all this time Mr. Hoskins stood on the side of the bed opposite to me, looking calmly on; his countenance was unmoved; and once or twice, when I chanced to turn my eyes toward him, he appeared so cool and phlegmatical, that I felt a pang in my heart, to think her nearest kinsman, on such an occasion, should be so heartless.

'All being over, Mrs. Petrekins, the landlady, with another woman whom I had procured to assist, reminded me that we ought to leave the room to them, and I accordingly moved to retire; but the old man, not having heard them, remained still looking steadily, but with the same seeming indifference, upon the body.

'"Sir," said Mrs. Petrekins aloud, "it is necessary that for a time we should have the room cleared," and she went round and touched him on the arm.

'It was like electricity; it roused him from his stupor with a shudder, and caused him to step two paces backward; in the

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same moment he turned his eye wildly on me, and burst into a violent flood of tears.

'The sight of that wooden old man, as I had often spoken of him in jocularity, weeping like a woman, and fondling over the face of the corpse with his hand, as if he had been an innocent child gently trying to awaken its sleeping nurse, surprised me with inexpressible grief. Till that time I had been enabled to preserve my self-possession, and to witness the progress of the dispensation with resolute tranquillity; but such tenderness so suddenly discovered in that dry bosom, overwhelmed my fortitude, and forced me also to weep. The women, with the wonted sympathy of their sex, were no less affected. It was some time, and not without remonstrance and entreaty, that they at last succeeded in leading the sorrowful old man away.' pp. 136—138.

Lawrie and Hoskins then proceed to their 'spec' of establishing a new town at the falls, which succeeds wonderfully, so that before the conclusion they 'have a numerous village of some two or three thousand inhabitants, two religious congregations, a bank, and two newspapers.' The new town of Judiville thus justifies the pompous ceremonial of its foundation, which was celebrated by the intoxication of Baillie Waft and the firing of sundry wooden cannon, made by Mr. Hoskins expressly for that occasion. We must, however, pass over its history in silence, and omit to notice many good scenes between Lawrie Todd, Hoskins and Baillie Waft, and others, in which Herbert, and the minister, Mr. Bell, bear a part.

One trait in Bell's character illustrates the penetrating sagacity and just observation of the author. He is made to be savagely austere towards the vices and faults of other persons; a disposition which is too apt to pass with the world as an indication of purity of character, but which is more justly accounted for in this instance from the circumstance that he had himself been guilty of a youthful indiscretion, and still harbored in his bosom the fiercest and blackest passions, which he in vain endeavored to assuage and control. We would not intimate, that persons of sincere rectitude of purpose, and a virtuous and benevolent nature, regard the vices and moral delinquencies of others with complacency or indifference; they are on the contrary kindly solicitous to reclaim wanderers by earnest persuasion unmingled with hate or bigotry, and even to punish where humanity to the community dictates a severe justice upon the offender. But a busy, meddling, per-

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secuting intolerance, or a fierce, gloomy indignation against every seeming deviation from good laws and exemplary manners, are unequivocal indications of latent, unsubdued depravity of nature.

A contrast is made in this respect between Herbert, who is really of a good disposition, tempered with discretion, and Bell, who is a gloomy Protestant inquisitor, of wicked austerity. Todd had received a letter from New York, giving him an account of some indiscretion of his son, and his concern in an affair no less serious than a duel. Speaking of Bell, the minister, he says,

'He was, indeed, a man who looked upon young follies with an austere aspect, so much had he suffered by his own in the outset of life; and I had by this time discovered, that under a saintly equanimity of manner, he had to manage vehement passions, which were chained, but not subdued. The natural man was yet strong within him; even in the pulpit, when he prayed to be protected from temptation, there was in his petition a something of energy and dread that thrilled deep among the awfullest sympathies of his hearer's hearts.

'It was some time before I could guess at the cause of this prophetical contention, for such it seemed to me; but when I came to know his wife better, which was not until I had moved to Judiville, there could be no doubt that his hearth was an altar of continual self-sacrifice, and that he had patched up a peace with decorum by his marriage, at the expense of his happiness, and the dignity of his mind. All this made him, as it were, inaccessible to the common matters of worldly care; he was an oracle only to be consulted at solemn times, and in perilous emergencies; so that I would have been just as well pleased could I have conferred with Mr. Herbert by himself, concerning the contents of Mr. Ferret's letter.

'Mr. Herbert came at the bidding, and Charles soon after returned and took a stool in a dark corner of the room unobserved by me, otherwise I would not have permitted him to remain; for it is not fit that the young hear what the old think of youthful errors.

'After some light generalities, I handed the letter to Mr. Herbert, and requested him to tell me what he would advise me to do. When he had studiously perused it, he gave it to the Minister, at which I was a little disconcerted, not wishing that he should become exactly a party to the consultation, though he was accidentally present.

'Mr. Herbert said nothing while Mr. Bell was reading; but I

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was startled when the reverend gentleman, having finished the perusal, laid down the letter on the table, and without making any remark, left the room.

'"He takes this matter too seriously," said Mr. Herbert.

'"I wish he had not been here," was my answer: "but since it has so happened, I will call him back." Accordingly, I went to the door and brought him in again. Mr. Herbert was the first who broke silence.

'"It is not to be disguised," said he, "that the poor lad has fallen into some irregularities, but it is equally clear he has committed no very heinous offence."

'"Against the world," interrupted Mr. Bell, sternly; "but what has he done against himself?"

'"I trust nothing that requires any particular animadversion," replied Mr. Herbert, calmly.

'"He that spareth the rod, hateth the child," interposed the Minister, in a still more emphatic strain; and turning to me, added, "Let him be brought home immediately, nor let him enter the world again, till he is better able to take care of himself."

'"I can see nothing in the statement of Mr. Ferret," said Mr. Herbert, evidently surprised at the Minister's warmth, "to justify so decided a step; we cannot put old heads on young shoulders; I think, from what I know of the generosity of the boy's disposition, that a kind admonition from his father will have a great effect."

'"Yes, it will," replied Mr. Bell; "it will have a great effect—it will be his ruin."

'I had hitherto said nothing, but there was an abrupt harshness in this that really shocked me, and I could not help remarking that Mr. Ferret's letter gave no reason to fear any thing so disreputable as to call for punishment.

'"No," rejoined Mr. Herbert; "and if you punish without guilt, or if you punish beyond the penalty due for the offence, you supply a motive, a vindictive motive, to perseverance in error."

'This sentiment, dictated by humane feelings and good sense, Mr. Bell condemned in strong terms; and the drift of his observations was to the effect, that the youth himself would one day turn upon me, and cause me to rue beneath his reproaches the fatal indulgence of his first fault. He then launched into a vehement discourse on the delusive light in which the first fault is often viewed, and worked himself into such zeal, that I sat amazed: while Mr. Herbert, evidently no less surprised, interposed, and began to remonstrate against the cruelty of unrelenting justice.' pp. 181—183.

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With this extract we close our brief notice of this entertaining little work, and beg leave to recommend it to our readers as a lively and correct description of the details of the process by which the 'woods are bowed beneath the sturdy stroke' of the adventurous emigrant, and the reign of civilisation extended over the vast solitudes of the unexplored wilderness.

ART. VI.—*Speeches on the Indian Bill; viz.—Of Messrs. Frelinghuysen, Sprague, and Robbins, in the Senate of the United States; and of Messrs. Storrs, Huntington, Bates, Everett, and others, in the House of Representatives, in the months of April and May*, 1830. Boston.

Perhaps no question, since the organization of the general government of the United States, has attracted more attention among the thinking members of our community, than the present controversy respecting Indian rights. Other questions have borne a more immediate relation to the present interests of the people. Embargo, war, commerce, the triumph of one political party and the defeat of another, are topics in which the mass of the inhabitants of a free country feel a deep interest, and on which they express their feelings strongly and simultaneously. It cannot be expected, that the condition of a few tribes of secluded Indians should at once claim and secure the sympathies of millions, who are occupied, if not engrossed, by their own pursuits, and who spend little time in contemplating the sufferings of men whom they never saw, or in attempting to redress grievances, which are totally different from any that are likely to be imposed upon themselves. Yet, with all the disadvantages of their situation, the Indians have found many thousands among the most intelligent, virtuous, and honorable of the American people, who would deal justly and faithfully by them, and who would make personal sacrifices of time, labor, and money, to protect and defend their rights. Indeed, so far as the people of the United States understand the subject, and are free from the influence of violent political partialities, their feelings are almost universally favorable to the claims of the Indians. All profess to wish well to the remnants of tribes still among us, and doubtless the great majority, with the qualification just mentioned, are sincere in their professions.

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On the subject of the rights of the American aborigines, there has been much loose reasoning, and some quite as loose morality. It will be found, however, that respectable writers have more frequently been led into error by stating extravagant cases, and raising imaginary difficulties, than by examining the foundation of title to lands, or by looking at facts, as they took place on the settlement of this country.

Much of the writing on the subject has been provoked by vehement and sweeping censures of the conduct and policy, pursued by colonists from Europe. The occasion of these censures, it was supposed, could be removed in no other way, than by making out for Europeans a paramount title, partly on the ground of superior civilisation, and partly because they were commonly in the habit of using land for tillage, which was not generally done by the original inhabitants of America.

It is to be remembered, also, that self-interest has always been able to engage advocates to enlarge, fortify, and defend, the pretensions of the whites; while the Indians have had no logicians to expose the sophistry of those, who would make 'the worse appear the better reason;' nor counsel, learned in the law, to study and plead in their behalf; nor historians to gather up and preserve the evidence of acknowledgments in their favor, or of the wrongs they have suffered. Orators they have had, the power of whose eloquence has a thousand times frustrated the schemes of the greedy speculator and the intriguing agent; but these schemes were always renewed and repeated till they became successful. The eloquence, by which they were resisted, was evanescent; but the motives by which they were prompted, never ceased to operate.

The discussions of the last nine months, especially those upon the floor of Congress, have brought before the public, it may be presumed, all the theories upon the subject of Indian rights, that have ever been promulgated. We are not able to mention a political measure, or a legislative act, that exhibited in Congress more decisive proof of elaborate investigation, than appeared in the debates on the bill to provide for the removal of the Indians. In preparing the present article, we have made free use of the materials supplied by these discussions, whenever they appeared to suit our purpose.

The question that presents itself, at the very threshold of the discussion, is, *What were the relative rights of the North American Indians, and of the early discoverers, to the lands of this*

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continent? On this question we shall briefly express an opinion. It will be satisfactory to ourselves; though we would by no means enforce it dogmatically upon our readers. When disentangled from all extraneous topics, it is a question on which every honest and intelligent man can easily form an opinion for himself.

We say, then, that the discoverers of America had a right to take possession of such parts of this continent, as they found unoccupied by human beings. This right they derived from the Creator of the world; and it cannot be disputed. But when they found portions, (even if those portions amounted to the whole,) occupied by the original inhabitants, the discoverers had no right to eject the possessors. How is it conceivable, that the mere discovery of a country should give the discoverers a title paramount to the title of natives, whose ancestors had been in possession from time immemorial? The mere statement of the case shows the inherent absurdity of a claim, which has been so often made, that many people seem to think it reasonable.

But, it will be asked, is an Indian to hold possession of a country, merely because he once chased a deer over a tract containing a thousand square miles? Were we disposed to be captious, we should answer this question by asking, whether a ship-master can *take* possession of land by sailing within sight of it? The Indian may as well hold possession in one case, as the ship-master take possession in the other. The fact is, that neither of these acts amounts to a possession.

Let us make this matter a little more practical. We will suppose that an English discovery ship, followed by a little colony, sailed along the coast, from the bay of Fundy to the mouth of Penobscot river; and, finding no inhabitants, landed there and began a settlement. After a few months, an Indian visits the new comers, and tells them that they are occupying his land, to which he can by no means consent. They ask him, by what right he claims the land; where he lives; and what his employments are. He frankly replies, that he claims the land between the Penobscot and the bay of Fundy, because some ten years before he spent a month there in hunting and fishing; that his principal residence is on Connecticut river, where he has a little patch of corn and pumpkins; that he sometimes visits Hudson river and lake Champlain; but that he probably never should have come to the Penobscot

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again, unless he had heard of intruders taking possession of his land.

The colonists, if they were kind-hearted and honest men, would hear him patiently, and assure him, that they did not intend to encroach upon any man's land; that he had not made out a title; that he neither had possession of the land, nor had he the slightest pretence for desiring it; that they would not molest him upon Connecticut river, and he must not molest them in their new settlement. If, in such a case, the Indian were to collect his countrymen and make war upon the colony, he would be the aggressor; and the colonists might as properly defend themselves against him, as against any other assailant.

It ought to be said here, that probably no North American Indian was ever so silly, as to make a formal claim, like the one which has been described. The case was stated, in order to answer the question so triumphantly asked by various writers, whether the chasing of a deer over an immense tract of country gives the Indian a right to exclude civilised men from that tract? It is plain enough, that a single hunting excursion is not an actual possession, though it is a great deal more than a mere discovery from a ship's deck; and it would furnish quite as valid an objection to a new settlement by civilised men, as to a new appropriation to purposes of hunting by other Indians.

We do not deny, that there may be cases, where discoverers may be debarred from taking possession of unoccupied lands, on the ground that they might probably be dangerous neighbors. If honest and reasonable fears were entertained on this score, by the original inhabitants in the vicinity, the new comers ought not to complain, if required to give proof, by a just and humane intercourse, of the most upright and honorable intentions. We go upon the assumption, that honest men can always establish a character for honesty; such a character, as that other men, civilised or uncivilised, will not be afraid to trust them. Certainly the inconvenience is much less, that colonists should be obliged to establish a character for themselves, than that the native inhabitants of a country should be obliged to take every adventurer to their bosom, without stopping to ascertain whether he is a viper or not.

We have supposed a case of unoccupied lands. It is believed, however, that very few such tracts were found by the

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early discoverers; and that these few were of very small dimensions. The American continent was generally, though sparsely, inhabited; and most of the inhabitants had a permanent residence, within known limits. We will therefore look a little at facts, as they existed on the Atlantic coast, during the seventeenth century. Colonists arrived in rapid succession. The natives were in the actual occupancy of the soil. Their possession was in no sense fictitious, or constructive. There were multitudes of places, which had not been vacant of inhabitants from the times of the remotest tradition. Other places were visited periodically, and regularly, for purposes of hunting. It appears to us, that both these kinds of possession were perfectly good; and that an attempt to divest the natives of their country, thus in their possession, on any plea of discovery, is not only monstrously unjust, but is an insult to the common sense of mankind.

We shall be asked, whether this continent should be left in a state of perpetual wildness, covered with interminable forests, and unsubdued by the labor of man? We simply answer, that the plainest rules of morality forbid us to appropriate to ourselves the property of others without their consent. The question about excluding civilisation from a whole continent is a very imposing one. It proceeds upon the assumption of some vast state necessity, some uncontrollable urgency of the case, which could not be resisted without opposing the manifest designs of Providence, and disregarding the comfort of mankind. But this assumption is altogether a mistake. The natives of America, whenever kindly treated for any length of time, were easily induced to receive European settlers as their friends. The question has no practical application to the natives at all. They did not keep perpetual guard on their shores to drive off new settlers. Many of them felt gratified to have white men come and share their country with them. In short, there was little difficulty in obtaining from the natives an honest and peaceable possession of lands, on every part of the coast. The necessity, therefore, which makes so prominent a figure in all discussions of this subject, never existed. Should the question still be pressed, and should we be required to answer what we would advise, in case a new world should now be discovered, the inhabitants of which should pertinaciously refuse to sell their lands, or to admit strangers, we reply, that no code of political morality

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should be introduced into the new world, which was not held to be sound and genuine morality in the old.

If, in the sixteenth and seventeenth centuries, the sovereign of a populous country might take possession of a sparsely settled territory belonging to his neighbor, merely because he could put the land to a better use than his neighbor was inclined to do, Europe might have afforded opportunities enough to carry the principle into practice. Large portions of Prussia, Poland, and European Russia were at that time very thinly inhabited. When such a chapter had been fairly inserted in the law of nations, and had been found convenient in its application to such a power as Russia, it would be quite soon enough to force it upon the natives of America. The Christian powers of Europe made what they called the Law of Nations. Why not first apply their own law to themselves? If it may be forcibly demanded of a community, which has much land and few people, to give a part of its land to a populous neighbor, why not make a great international agrarian law, by which Europe should be parcelled out to the different nations, in a compound ratio, having regard to the number of souls, and the relative productiveness of the land?

Even in our own days, there are many places upon the Eastern continent, where land might be claimed by all the arguments, which are set in such formidable array against the possession of the American Indians. Vattel speaks of 'erratic tribes.' How many hundred erratic tribes of Tartars are there? How many of Arabs? The Tartars (at least many of them), pay no attention to agriculture, and are scarcely more civilised than were the associates of Powhatan, or king Philip.

The fact is, that the great title to land, from the days of Noah to the present time, both in respect to communities and individuals, has been a *lawful occupancy;* that is, an appropriation to one's own use of what previously belonged to nobody; or a possession fairly derived from a previous lawful possessor. The formality of deeds, and covenants, and guaranties, has respect to the evidence of title, and not to the substance of it. Over a great part of the world, indeed, the law of the strongest has been the only governing rule of action. But wherever nations, or individuals, have pretended to respect each other's claims, and to act upon principles of moral rectitude, the title

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to property has not been made to depend upon the use to which the possessor applies his property. He must, indeed, so use his own as not to injure his neighbor; but more than this he is not required to do. Nations are not to be asked, whether they gain their subsistence by hunting, pasturage, fishing or agriculture, before it can be determined, whether they have a title to their own country or not. The only question, which an honest man need to put, is, Have you a lawful possession of a country within known boundaries? If this question can be answered in the affirmative, the whole matter of title is forever at rest.

The United States would contend with a very ill grace for the doctrine, that unsettled lands may be seized by those, who need them for the purpose of cultivation. How many millions of the people of France, Germany and Ireland might appropriate to themselves good farms in the States of Indiana, Illinois and Missouri? Why should they not take immediate possession and set up their own forms of government?

It is worse than idle to say, that an uncivilised man has not the same title to property, that a civilised man would have, in the same circumstances. There is not, there never was, a law of nations that explicitly made this distinction. It is admitted, that an Indian has as good a title to his canoe, as an English merchant to his ship. Why not as good a title to his landing-place, his little island, and his wigwam, as an English gentleman to his park and his villa?

When the colonists landed on the American coast, they brought with them charters from the kings of Europe. It may be worth while to spend a few moments in the inquiry, *What were the legitimate uses of these instruments?*

It is very obvious to the attentive reader of history, that the right of discovery was set up by the maritime nations of Europe rather against each other than against the aborigines of America. The master passions of ambition and avarice were excited and inflamed to an astonishing degree; and all the great discovering powers aimed to grasp as much as possible of the new continent. Spain and Portugal could not engross the whole. England and France would come in for a share. In these circumstances, it became gradually established, that one power should not interfere with the settlements of another; and boundaries were agreed upon, within which the subjects of the respective powers might, exclusively of all

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other Europeans, carry on their commercial enterprises, and make their respective settlements.

Stipulations of this kind were mutually beneficial. They prevented many collisions, and were neither in themselves, nor in their tendency, injurious to the natives. Still, the adoption of such a course was entirely optional with the discovering powers. Any one of these powers, in accordance with the principles already stated, might take possession of any unoccupied land upon the American continent; or might purchase of the natives any land not previously sold by them to Europeans. How far a possession, thus lawfully obtained, should extend in every direction, would be a matter of sound judgment, or of reasonable construction. The Spaniards were not entitled to be the sole visitors of America, merely because Columbus discovered it. The fact that Henry Hudson entered the river, which now bears his name, furnishes no good reason why new settlers from four different nations might not have obtained lawful possession of Long Island, Connecticut, New Jersey, and the west bank of the Delaware. All that an infant colony could rightfully demand of other infant colonies, was, that they should not plant themselves so near, as to cut off those resources, which were necessary to its existence and its comfort. If there had been no conventional arrangement, therefore, between the sovereigns of Europe, the subjects of any one of these powers might have made settlements upon any unoccupied lands, or upon any lands of which possession could be fairly obtained.

A charter granted by a King of England, for instance, to certain individuals among his subjects, legitimately implied the following things; first, that he would guaranty the territory, which he had granted, against the claims of any other European power; secondly, that he had not granted, and would not grant, the same territory to others of his subjects; and thirdly, that the grantees were to hold the territory, when actually settled, as a part of his realm, under such principles of jurisdiction and legislation, as might be properly applied to other parts of his realm. So much would be fairly and naturally implied in giving and receiving a charter. Specific conditions might be inserted, at the pleasure of the King, which, if assented to, would bind the grantees; provided, however, that the conditions did not invade the inalienable rights of his subjects, nor of any other persons.

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But nothing can be more extravagant than to suppose, that the charter of an English king could deprive of their rights the inhabitants of a distant continent; or that their title to land or rivers could be in the slightest degree invalidated by the magical effect of a parchment, signed by a man of whom they never heard, and who knew nothing of the regions which he conveyed, nor of the people by whom these regions were inhabited. Several of the charters conveyed territory bounded by lines of latitude, and extending from the Atlantic to the Pacific; and certainly the King of England had as good a right to take lands from the natives of California as from the natives of Cape Cod. If he could properly drive a Narraganset from his fishing hut, at the mouth of Newport harbor, he might seize the beaver-traps of the Sioux on the head waters of the Mississippi. If he might, by the mere force of his royal prerogative and as the head of a discovering nation, hold a single mile on the Atlantic coast, against the will of the original owners, he might seize and hold the entire continent, so far as the rights of the natives were concerned. To the consequences of such a doctrine we may advert on a subsequent page.

We have spoken of the legitimate meaning and effect of a royal charter. In point of fact, however, the kings of Europe did, in some instances, assert the right to subdue the natives by force, and to appropriate their territory, without their consent, to the uses of the colonists. The King of Spain founded this right solely on the grant of the Pope, as the vicegerent of Christ upon earth. The Kings of England, in the sixteenth century, placed it on the superior claims, which Christians possessed over Infidels. Spain acted in accordance with her principles, and treasured up a fearful amount of guilt and infamy, which will be remembered against her so long as the history of this continent shall be known. It is a pleasing consideration, however, that there were individuals, even in the court of Spain, who utterly disclaimed and rejected these absurd and tyrannical doctrines. Mr. Huntington, in the course of his researches on the Indian question, ascertained, that the civilians and crown lawyers of Spain gave their advice against receiving the Pope's grant; and 'one of the bishops in a treatise dedicated to Charles V., uses this strong language: "The natives of America, having their own lawful kings and princes, and a right to make laws for the good government of their respective dominions, could not be expelled out of them,

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nor deprived of what they possess, without doing violence to the laws of God, as well as the laws of nations."'

This opinion is so obviously just and reasonable, that it would not seem deserving of particular praise, had it not been pronounced in a period of great superstition, and in opposition to the doctrines, then prevalent, of unbounded ecclesiastical and regal prerogative. But what words can express the indignation of every honorable man, that in the United States, and at the present day, the attempt should be made to prove, by the weakest and vilest sophistries, that the natives of America had no rights, either of territory or government; and that the discovery of a cape, or an island, was a constructive possession of a tract of land extending across the continent?

The charters given by British kings, during the seventeenth and eighteenth centuries, are generally silent respecting the natives. Lands, rivers, and so forth, are granted, in precisely the same manner, as if there had been no inhabitants. This course was very far from being honorable. The rightful occupancy of the Indians should have been explicitly acknowledged, and a fair and lawful manner of purchasing their title should have been prescribed. The very silence of the charters on this subject shows, that the extravagant claims of the sixteenth century were abandoned, as utterly untenable. It shows also, that there was a grasping desire on the part of the European monarchs, which was altogether unjustifiable, and a disposition to leave the Indians to the arts and the cupidity of adventurers. If religious persecution had not driven to these shores some of the best and most honorable men in the world, it is not improbable that serious encroachments would have been made upon the rights of the North American Indians, under color of the royal charters. A few details can be gathered from the early history of this country, which indicate an undue reliance upon these charters; but we have seen no evidence, that the Indians were, in a single instance, deprived of their lands, under any pretence of right to these lands, subsisting in the King of England.

It is true beyond all question, that the early settlers at Plymouth, at Salem, at Saybrook, and, as a general rule, all along the Atlantic coast, purchased the lands upon which they settled, and proceeded in their settlements with the consent of the natives. Nineteen twentieths of the land in the Atlantic

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states, and nearly all the land settled by the whites in the western states, came into our possession as the result of amicable treaties. The small portion, claimed by right of conquest, was wrested from the Indians in strenuous war. It was no fictitious or constructive conquest. Every inch of ground was contested; and most of the wars, which issued in acquisition of territory from the Indians, were forced upon our fathers, and were strictly defensive on their part. Some small portions of territory were abandoned by Indians, because they preferred to live at a greater distance from the whites.

In a word, the first settlers of the Anglo-American colonies, and of the Dutch colony on the Hudson, purchased lands of the Indians, or professed to have purchased them, in the most honorable manner. Although doctrines were sometimes asserted in theory, which would have abridged the rights of the Indians, yet we do not find in practice a single demand of territory from them, on the ground that the king of England had granted it to some of his subjects. The practice was all the other way; and every purchase of land from the Indians was made in such a manner, and under such circumstances, as to be a fair and full admission of their *right to sell;* and, of course, an admission of their original title.

At an early period of the settlement of Massachusetts, as we learn from Hutchinson's history, the most ample and explicit declarations were made by our fathers to this effect; viz. that the natives had derived from God a perfect title to their country; that they were subject to their own government, and to no other; and that no human power could divest them of these rights.

Soon after the emigration commenced from Boston and its neighborhood to the banks of Connecticut river, murders were perpetrated by Indians residing not far from Springfield. The governor sent to Mr. Pynchon, the magistrate or leading man of the new settlement, directing that the murderers should be apprehended for trial and punishment. Mr. Pynchon declined obeying the order; and, among other reasons, assigned the fact, that the Indians were not under the jurisdiction of Massachusetts. This fact is stated with admirable clearness, as follows: 'I grant that all these Indians are within the line of the patent; but yet, you cannot say they are your subjects, nor yet within your jurisdiction, till they have fully subjected themselves, (which I know they have not,) and until you have bought their land. Until this be done, they must be esteemed

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as an independent, free people.' This passage indicates a discriminating mind and an honest disposition. It is in the true spirit of our declaration of independence, issued more than a hundred years afterwards, in which we asserted, that governments derive 'their just powers *from the consent of the governed.*' In this extreme case of actual murder, committed by Indians near the white settlements, and within the chartered limits of the colony, this magistrate had the candor to admit, that the perpetrators were not amenable to the laws of the whites, because they had never subjected themselves to those laws. The reason was admitted by the governor to be valid. The only method of proceeding against the Indians would have been to demand satisfaction, and, if it should be withheld, and the cause should have been deemed sufficient, to declare war in the last resort.

It is true that the colonists, and sometimes the agents of the government at home, talked to the Indians about the grandeur of the English monarch, the number of his people, the greatness of his power, his willingness to protect his friends, and his ability to punish his enemies. In these discourses, some vague expressions about his sovereignty were doubtless uttered; but always in such a sense, as to lead the natives to think that it was a great benefit to live under the king's protection; that his character was altogether paternal; and that living under his care implied only, that Indians living in this manner were not to join the French or the Spaniards, and were to remain secure in the possession of their lands, liberties, and laws. No instance has met our eye, nor has it been intimated in the late discussions, that any instance can be found, in which an English colony, or an English agent, told the Indians, that they had no right to the lands on which they were born; that the king of England had granted their country; and that they were now subjects of the king, amenable to his laws; all their own laws and customs being abolished by his order. There would have been as little safety as honesty in making such a proclamation, at any period of the colonial history.

Treaties were made with the Indians from the first. Some of them were observed on both sides, with exemplary fidelity. When differences arose, and wars succeeded, the change of feelings and of circumstances was often owing to the improper conduct of individuals. Even war did not always, nor often, prevent a return to a regular diplomatic intercourse. Treaties

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were made, in numberless instances, and in every part of the continent, founded on stipulations, which implied as much actual and rightful independence on the part of the Indians, as on the part of the whites.

About the middle of the last century, alliances with the Indians became very important, and were much sought by the English and the French. The terms of these alliances usually were, an engagement of protection, accompanied with presents, made by the European power to the Indians, and the admission of a qualified dependence by the latter. It was never understood, however, that the Indians were to be deprived of their lands without their consent, or that their laws and customs were to be in any manner affected. Before the commencement of the revolutionary war, the policy of Great Britain had become fixed and uniform on this subject. The Indians were not to sell their lands to individuals, nor to the enemies of the king. They were to live under his protection, and to remain secure in the possession of their hunting-grounds and of their independence. Whenever they were disposed to sell their lands, the government alone could purchase; that is, the government, either of the colonies, or of the mother country, as the circumstances of the case might be. This right of pre-emption, and the cognate right of succeeding to the possession of any portion of the country which the Indians might abandon, or where they might become extinct, were claimed by virtue of discovery. All the principal tribes of Indians agreed, by formal stipulations, that they would not alienate their lands, except to the government.

Those who would stretch the right of discovery to such an extravagant extent, as not to leave the Indians any rights at all, allege, that the highest judicial tribunal in this country has decided, that the Indians have the occupancy merely, while the title to the land is in the government. From this statement, the terms of which seem not very favorable to the Indians, it is inferred, that the Indians have not, never had, and never can have, any title to their land; and, as the supreme court is justly and highly respected for the correctness of its decisions, the next inference is, that, in point of morality, there is no danger of encroaching upon Indians, for they have no rights either of person or property. Now in this interpretation of the opinion of the court, there are several great mistakes.

As to the title of the European sovereigns to Indian lands,

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as gained by discovery, the court simply declares what were the claims, laws, and practice, of the mother country and the colonies. The claims and the practice were uniform to this extent; viz. that the natives could not sell their lands to foreigners, nor to individual white men. Of course, the government could be the only purchaser, and the only successor to the Indian title. This right of pre-emption and of succession was called by the court *a seizin in fee*, or an ultimate title; it being the only remaining title, after the occupancy of the Indians should cease. The name given to the right of pre-emption could not in any manner affect the claims or the rights of the Indians, so far as the nature and the extent of their occupancy were concerned. The court considered the law to be as above described; and of course all judicial tribunals were bound so to declare it.

Not a few persons have supposed, that the mere recognition of the right of discovery, as above described, was tantamount to a declaration, on the part of the court, that the right of discovery, as claimed by European sovereigns, even in its greatest latitude, was reasonable, equitable, and binding upon the natives. This is a total mistake; and it originated from a misconception of the proper functions of a court of law. Such a court is bound to declare what the law is, and not what it should be. In every well regulated government, the legislative power is kept distinct from the judicial; and in Great Britain and America, this distinction is marked by plain and positive rules. A court can neither make, alter, nor repeal a law; nor does the announcement of a legal doctrine, or of an established usage which the court is bound to recognise, imply that, in the opinion of the court, such doctrine, or such usage, was originally wise and salutary. On the contrary, courts of law are often called to sustain and enforce particular acts of legislation, which the judges would by no means approve, if they were called to act as legislators.

It would be a hard case, indeed, if our judges were required to sanction, with the weight of their private character, as moralists, philanthropists, and Christians, all the laws, which, as parts of our code, they are bound to enforce. And, on the other hand, the laws of the country would be in a curious predicament, if they might be set aside, that is, repealed, by the court, whenever the judges, looking at them as philosophers or legislators, should deem them unwise or inexpedient.

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The slave trade furnishes the best possible illustration of the subject. This trade was recognised as a lawful traffic by the highest courts of law in England, for a great length of time; and till it was made unlawful by positive statute. If a case had occurred in this country, (and, for aught we know, cases may have occurred,) it must have been pronounced a lawful traffic here, at any time previously to 1808. The same judges, who must then have sustained it as a legitimate commerce, must now declare it piracy, and sentence a man to be hung for engaging in it; and yet the private opinion of the judge as to its inherent enormity, may not have undergone the slightest change. Let it be understood, then, that the judges of the supreme court have only decided what the law is, respecting the right of pre-emption as founded upon discovery; but that they have not declared what they think would have been the wisest and best manner of regulating this subject originally.

For ourselves, we have no hesitation in declaring, that we consider the supposed right of pre-emption to be an encroachment upon the rights of the Indians. We cannot conceive how the sailing of an English ship in sight of Cape Cod should give the king of England any right to dictate to the Indians in Massachusetts, respecting the sale of their lands. We therefore hold, that these Indians might properly sell their lands to Frenchmen, or Spaniards, although an English vessel had sailed along the coast, and seen it, before the Frenchmen and Spaniards arrived.

Having said this, however, we feel bound to add, that the English government might lawfully prescribe on what terms English subjects should purchase lands of Indians; or it might forbid them to purchase as individuals at all. Great Britain and France might agree, that they would not purchase within certain limits; and such an agreement might be a great convenience to the parties, while the Indians could not justly complain of it. Proceeding one step further, the Indians might stipulate with the powers of Europe, that they would not sell their lands to individuals, but only to the governments respectively, with which the stipulations were made. Conventional arrangements of this sort might tend to peace, and to the promotion of the permanent interests of all parties. Such, very nearly, was the state of things, at the commencement of the revolutionary war.

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The opinion, which we have expressed, as to the right of pre-emption, seems to us to be the obvious dictate of reason and honesty. How can one man assume the right of prescribing in what manner another man shall dispose of his own property? And how can there be one rule of morality and honesty for individuals, and another for communities? But we are willing to fortify our opinion a little by authority. About the middle of the last century, an English trader, by the name of Trent, purchased of Indians a large tract of land lying on the Ohio, and delivered them a considerable quantity of goods in payment. The deed was formally executed; and the contract was well understood by the parties. The question arose, whether this was a valid purchase, or not. Counsellor Dagge and Sergeant Glyn, two eminent English lawyers, gave a written opinion in favor of the validity of the purchase. They founded their opinion on the fact, that the Indians were the original possessors and true owners of the land. Of this opinion, dated in 1755, Patrick Henry, Benjamin Franklin, and Edmund Pendleton, gave their written approbation. There could be no question that, so far as the Indians were concerned, the sale was a good one, they not having at that time entered into any stipulation with the government not to sell to individuals. The only question seemed to be, whether Trent was not prohibited, by the regulations of his own government, from taking the grant. This was settled, we believe, (though we have not the authority at hand,) by the formal assent of the government to the transaction.

We have already remarked, that the mere act of buying land of the Indians was, in the circumstances of the case, an acknowledgment of their title. But it is alleged against our ancestors, that they obtained lands of the Indians at so cheap a rate, that it was no purchase at all; that this mode of acquiring lands was tantamount to a declaration, that the Indians had no title, and therefore had no claim to a compensation. These positions have been gravely taken and earnestly defended; and, as perhaps no subject has been more misrepresented and misunderstood, we think it worth while to spend a few moments in considering it.

The first settlers, it is said, gave the Indians for their lands only a few trifling articles, of little cost, and less intrinsic value; therefore the Indians were not admitted to have any title to their lands, and the contract was not binding on either party.

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This is a fair specimen of much of the reasoning on the subject.

It seems strange, that the purchasers should plead, that a bargain is not binding on themselves, for the simple reason that they obtained the lands at too cheap a rate. One would think, that the other party could demand to be released from the terms, with a better grace. But is it not a maxim, in all civilised countries, that a man can *give away* his property, unless it be charged with the claims of his creditors? His consent, fairly and deliberately yielded, is all that is necessary to a transfer of his property. In cases where a valuable consideration is necessary, the amount is not material. In a conveyance of a house and land, the consideration is equally valid, whether it be five dollars or fifty thousand.

The great thing to be obtained of the Indians was their *consent* to the settlement of their country by whites. Many fair and honest arguments could be used with them, and were used in fact, to induce them to give their consent. They were treated altogether as reasonable beings, and not as brute animals. In every part of the continent, they showed themselves to be possessed of a very good share of natural sagacity. They were told that the settlement of Europeans among them, or near them, would be much for their advantage; that, in this way, they would have a regular traffic secured, by which they might procure articles of essential value to them; that they would thus greatly improve their condition; that the British king was powerful and would defend them against all foreign nations; that, if they would acknowledge him as their great Father, he would regard them as his children, and protect them against every species of injustice; and especially that their lands should not be taken from them, or settled, without their consent. These declarations, and many more of the same general nature, were made to the Indians, all along the coast. In some instances, they were persuaded by these arguments, much more than by the accompanying presents. They received the whites as brothers; they were proud of them as neighbors and allies. The cases were not few, in which strong personal friendships were formed between the red man and the white; friendships, which were maintained with perfect fidelity during the lives of the parties.

Now it appears to us, that such a consent is binding upon the Indians; and that, if not a farthing of property passed from

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one party to the other, the possession of the whites, thus obtained, is good in law, in honor, and in conscience. Indeed, if the whites had been hired to come and settle, and the Indians had given the skins of all the beavers, which they could catch in ten years, as an inducement, the possession of the whites would not be the less lawful on that account; nor would the title of the Indians to their remaining lands be in the least degree invalidated, because they had freely given away a part, with the design of gaining kind and valuable neighbors.

If the Indians had a right to give away their lands, they surely had a right to sell them at a low price. But there was in fact, no reason to complain of the price. The settlers usually gave as much for land as it was then worth, according to any fair and judicious estimate. An Indian would sell a square mile of land for a blanket and a jack-knife; and this would appear to many to be a fraudulent bargain. It would, however, by no means deserve such an appellation. The knife alone would add more to the comfort of an Indian, and more to his wealth, than forty square miles of land, in the actual circumstances of the case. And as to the white purchaser, the land could be of no value to him, till he had made it of value by his own labor. It is matter of history, that the English colonists as a body, so far as they had property, were great losers by their settlement here. They were noble spirited men, and property was not their object; if it had been, they would have been egregiously disappointed. Not one in a hundred could have sold his house and farm, (either ten, fifteen, or twenty years after the settlement,) for as much as they had cost him, at a fair estimate of the labor bestowed, without reckoning any compensation made to the Indian proprietor.

It might be curious to ask these scrupulous men, who say that the Indians ought to have received a greater price for their lands, *How the proper standard could be fixed?* Our ancestors were not prophets. They were not certain but that their settlements would fail, as other settlements had failed before. If they should succeed, the settlers could not tell what the intermediate difficulties would be; nor how many reverses must be experienced before they should be successful. But suppose they had been assured, when Boston was settled by the pilgrims in 1630, that lands on Ann-street would sell for ten pounds an acre in 1670; that lands on Washington-street, between Summer and Bedford-streets, would rise to the same value before

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1700; that lands in the west part of the peninsula would be taken up for building-lots soon after 1800; and that the site of an insurance-office in State-street would be sold for fifteen pounds a square foot in 1825. How would all this affect the price, which they were bound to offer to the Indians? By which of these prices were they to regulate their offers? These facts, seen with absolute certainty beforehand, would not have proved that the land, on which Boston has been since built, was worth a farthing in 1630.

There are millions of acres of land in the Carolinas, which would not at this moment be accepted as a gift; and yet, as a planter of credit and character assured the writer of this article, much of this land will produce, with very little labor, one hundred and fifty bushels of sweet potatoes to the acre. Two hundred years hence, it will probably bring a hundred dollars an acre. Perhaps some of those kind-hearted gentlemen, who think that our ancestors dealt hardly by the Indians, in giving them so small a price for their lands, would like to purchase some of the best tracts on the Columbia river; or, if they prefer an inland district, some of the best intervals near the head waters of the Yellow Stone. These tracts are now in the possession of Indians, and if any man thinks he ought to give the same price for them, as he would be obliged to give the present owners of lands on the Connecticut, or the Susquehanna, for an equal number of acres, he can doubtless act accordingly. The probability is, that within two hundred years, every acre of land in North America, which shall then be capable of cultivation, will command a good price.

Dr. Dwight has, somewhere in his travels, perfectly vindicated our ancestors from any just imputations on this subject. Among other facts, he mentions the following—One of the first settlers of Northampton, a few years after the settlement began, and the Indian title was extinct, made a bargain, in which it was left optional with the other party to take five shillings or several hundred acres of land in that town—the money being deemed a fair equivalent for the land, which was then the undisputed property of a white man. The whole matter is summed up by Dr. Dwight, in the very sensible and forcible remark, that land in America, when our fathers first came hither, '*was like water, too abundant to be the subject of price.*'

Perhaps it will be asked, if land was so abundant as not to

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be the subject of price, how could there be any title to it? and why might it not be taken from the possessors without their consent? We answer, that the abundance of a thing has nothing to do with the title to it. A man worth a million of money has as good a title to the last dollar as to the first, though a very small part is necessary for the comfortable support of his family. The master of a foreign vessel, anchoring in the river Thames, fills his water-casks without asking permission, or making compensation. Does it follow, that the waters of the Thames are of no value to the British people, and that the government has no jurisdiction over that river? When this continent was first settled, a few square miles of land were of little consequence to the Indians; but it does not follow, that after all the most eligible parts of the continent have passed into the possession of the whites, the small remnants of good land now inhabited by the original proprietors are without value to them; much less, that they have no title to their land, because it is alleged to have been formerly of no value. The reason why land, in the possession of Indians, was formerly of little value, has long ceased to exist. Then, if they sold a tract, they had interminable regions remaining; now, they have not enough left to enable them to keep their community separate from the whites. As the quantity in their possession has diminished, its value has become enhanced as a matter of course. But neither the diminution of quantity, nor the enhancement of value, has any thing to do with the validity of the title.

Unless we greatly deceive ourselves, the candid reader of the preceding pages will agree with us in the following conclusions; viz.

That the original possessors of this continent had a perfect title to such parts of it as were in their actual possession, when it was discovered by Europeans;

That whether this title were recognised or not by English kings, or English courts of law, it should now be allowed in the fullest manner, by every correct moralist and every statesman;

That although discovery gave a right to take possession of unoccupied parts of this continent, it gave no right whatever to dispossess the natives of any lands, which were known to be theirs, whether used for hunting, fishing, pasturage, mining, agriculture, or any other purpose;

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That the consent of the natives was necessary, before the whites could take lawful possession of Indian lands;

That although the kings of Europe might agree among themselves as to the limits within which they would purchase lands of the Indians, and might prescribe to their subjects, respectively, the manner in which purchases should be made; yet that the Indians were not bound by any of these measures, till they had voluntarily assented to them;

That the Indians, like all other people, are competent to bind their respective communities by compacts or treaties;

That, whatever doctrines may have been asserted in theory, the practice of the early settlers, and of those who succeeded them, were based upon the foregoing principles; and

That, previously to the American revolution, the right of the Indians to the peaceable occupation of their own country, till they should voluntarily relinquish it, was fully admitted by the government of the mother country and of the colonies, and was sustained by the deliberate opinion of some of the ablest men of the age.

But if we were to admit, that Indians had no right to their own lands when this continent was discovered, and that they were to be considered as without the pale of human society, and to be hunted down as buffaloes and bears, it by no means follows, that their character and relations would remain the same, after the white settlers had entered into friendly engagements with them. This, in point of fact, was always done by the settlers, at the earliest practicable moment. The language of the whites to the Indians was, 'we are brethren, children of the same Almighty Lord and Father of all. We have come to do you good. We wish to live in peace with you. As you have much land, will you not grant us a little, and admit us into your neighborhood?' The Indians answered, though sometimes with hesitation and fear, 'you may settle by our side, and you may have land within certain limits.' Compacts of this kind were made between the first settlers and the Indians, along the whole line of the Atlantic coast. From the moment, in which they were made, whatever the respective rights of the parties might have been previously, the question of lawful title should have been considered as forever settled. The Europeans had chosen to regard the red men as human beings, and not as buffaloes and bears. They had addressed them as reasonable beings, and found them accessible

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to motives, and susceptible of love and hatred, hope and fear, gratitude and generosity. They had proposed friendly relations, and their proposal had been accepted. They had admitted a title in the original possessors, by accepting grants from them; and, by agreeing upon limits, they acknowledged the title of the Indians to all lands not purchased from them. No conclusion can be safer, or more unquestionable than that the bare assignment of limits between communities, with the declaration, reciprocally made, *the land on this side belongs to us, on the other side to you*, is an acknowledgment of a perfect title.

Not only is this the natural meaning of the act, but, in the first settlements of this country, it was often and solemnly *expressed* as the meaning; and no other meaning was ever assigned to it. Now with what face could the colonists, after having obtained a settlement in this manner, turn round upon the Indians, and say, 'you had no right to the land you granted to us; and you have none to the remainder? We shall take the whole.'

When the revolutionary war commenced, the colonists had reason to be apprehensive, that the Indians would be employed against them by the mother country. To the Indians our fathers were no strangers. Their modes of warfare, their history, their competency to enter into contracts, their claims to territory, were well known. With this perfect knowledge of their rights and their character, the first Congress, more than a year before the declaration of independence, directed 'proper talks to be prepared for the several tribes of Indians, with a view to engage their continued friendship, and their neutrality in the unhappy dispute with Great Britain.' In September, 1775, a treaty with the Six Nations was reported to Congress, and various resolutions were passed, all having for their object the maintenance of friendship with the Indian tribes, as independent sovereignties. In March, 1776, it was resolved, 'that Indians should not be employed as soldiers, in the armies of the United Colonies, before the tribes to which they belong should, in a national council, held in the customary manner, have consented thereunto; nor then, without the express approbation of Congress.' A more honorable stand could not have been taken by this most illustrious body. The national rights of the Indians were acknowledged in the fullest and yet the most delicate manner. Congress was not willing that

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tribes should be exposed to retaliation and injury, on account of the acts of individuals; nor that they should be drawn into a war without time for deliberation, or without their consent.

In October, 1777, it was resolved, 'that it be earnestly recommended to the President and Assembly of the State of Georgia to use their utmost exertions to cultivate peace and harmony with the *Indian nations*.' The next year, a treaty was formed with the Delaware Indians, by which the parties bound themselves to perpetual peace and friendship, and to an alliance offensive and defensive. The United States 'guarantied to the Delaware nation all its territorial rights, in the fullest and most ample manner, as it hath been bounded by former treaties, as long as the said Delaware nation shall hold fast the chain of friendship.' Here is an instance of a solemn guaranty to an Indian nation, given in the extremest crisis of our nation's peril, and therefore under circumstances, which rendered it doubly sacred.

The transactions of the revolutionary Congress, in relation to the Indians, were very numerous; and they were all regulated by the principle, that Indian tribes were distinct communities, and had a perfect right to their territory, and to their own forms of government.

By the articles of confederation, all public intercourse with the Indian tribes was made a national concern; and the several States thus relinquished to the United States the right of making treaties with these tribes.

In 1785, the treaty of Hopewell was formed between the United States and the Cherokees. By this compact, peace was made, boundaries were fixed, and permanent relations established between the parties. The Cherokees consented to come under the protection of the United States, and of no other sovereign. Prisoners were exchanged; and it was agreed that no future acts of retaliation should take place, unless in the event of a manifest violation of this treaty; and then, not till after a demand of justice, and a declaration of hostilities. Intruding whites were abandoned to the Indians to be punished according to their discretion; and criminals, taking refuge in the Indian country, were to be delivered up to the United States for punishment.

From a mere reference to these topics it is manifest, that the national character of the Cherokees was admitted in the fullest sense; and that there was an implied guaranty of their

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territory, inasmuch as definite boundaries were fixed, and white men were forbidden to transgress them. Against this treaty North Carolina and Georgia protested, on the ground that it was an exercise of power by the United States, not confided to them by the articles of confederation. The whole difficulty arose from different constructions given to the following sentence, in one of the articles: 'The United States, in Congress assembled, shall have the sole and exclusive right of regulating the trade and managing all affairs with the Indians, not members of any of the States, *provided* that the legislative right of any State within its own limits be not infringed or violated.' The 'affairs' of the Indians here intended are shown by contemporary history and legislation to have been their public affairs, or their intercourse with the whites. There is not the slightest reason to suppose, that it had any reference to the laws, customs and usages of the Indians among themselves. Some of the Indian tribes had been broken up, or dissolved, and the individuals were either settled among the whites, or wandered about without any fixed residence. By 'Indians, not members of any of the States,' were probably intended all the tribes, which remained upon their original territory, and in their original independence. The exact meaning of the proviso it seems not very easy to ascertain. It may have been this: viz. that it was not the design of the parties to these articles to restrain the legislative right of any State in regard to the Indians, but rather to leave the proper extent of this right to be afterwards ascertained. In point of fact, the several States had never exercised any right of legislation over Indians residing within fixed limits, upon their original territory. This had not been done, even in the oldest States, in reference to any considerable body of Indians, though several communities of this kind had been surrounded by white settlements, and were clearly included within the external limits of States. By every sound rule of construction, a *proviso* should not be so interpreted as to make the principal clause inoperative, unless such an interpretation be unavoidable. But as the chartered limits of the several States embraced all the territory within the United States, it is evident, that the framers of the articles of confederation must have supposed, that there were Indians within the United States, not members of the several States, nor subject to State legislation. As a controversy existed, in regard to the disposition, which

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should be made of unappropriated lands, it is probable that much difficulty was experienced in framing the article now under consideration. Mr. Madison, in the Federalist, declared it to be 'obscure and contradictory,' and expressed his gratification that nothing like it had been introduced into the constitution.

The protest of North Carolina and Georgia was referred to a committee of Congress. An elaborate report was made in support of the power of the general government, as it had been exercised in the treaty of Hopewell; and that treaty went into full effect.

It should be understood, that these two States did not assume the positions now taken, that Indian tribes are not competent to make treaties; that treaties made with them are not binding; and that the several States may extend their laws over the Indians without their consent. The controversy was on the single point, whether treaties should be made with the Indian tribes by the United States; or by separate States with the tribes within their respective chartered limits. The State of Georgia was particularly desirous to make contracts with the Indians for the acquisition of their lands, without any restraint from the United States. But the committee of Congress, to whom the protest was referred, argued, that all public relations with the Indians are strictly a national concern; and that, as the nation was called upon to conduct wars with the Indians, it was necessary that treaties should be made under no other authority than that of the United States.

When the constitution was formed, the treaty-making power was expressly given to the general government, and expressly inhibited to the several States. By the same instrument, Congress was invested with power 'to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.' All treaties then in existence, and all treaties, which should be made thereafter, were declared to be the supreme law of the land, paramount to all State laws and constitutions. No dispensing power was given to any branch of the government, nor to all the branches united. The reason is obvious. No treaty can be dispensed with, or set aside, by one of the parties. If the terms of a treaty are burdensome, relief must be sought by negotiation. There is no other way, except by an appeal to arms.

When the meaning and effect of treaties come under judicial

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investigation, the courts of the United States are the tribunals, to which this duty is assigned by the constitution. Hence an opinion has arisen, and has sometimes been expressed by gentlemen of respectability, that the supreme court of the United States might declare a treaty void, on the ground that it is unconstitutional. But the court is invested with no such power. It might as well declare one part of the constitution void, on the ground that it is inconsistent with some other part, as a treaty void, because it transcends the powers of government. It must be taken for granted, that the framers of our constitution made a plan, the parts of which are not inconsistent with each other. At any rate, if there be an inconsistency, the people of the United States must remove it. In like manner, if the President and Senate make a treaty, it must be taken for granted that they have not transcended their powers. The treaty-making power involves all the high attributes of sovereignty. The framers of the constitution manifestly intended to lodge this power in safe hands. If they committed a mistake, the people can, by an amendment of the constitution, make a different disposition of it. Treaties are, in their nature, transactions of a higher character, than constitutions of internal government. The whole human family is interested in securing the faithful observance of engagements between nations; and this interest greatly increases, if one of the parties be weak and the other strong. Such nations as England, France, Russia, and the United States, can take care of their own interests; but, if the sanctity of treaties is to be violated, how is it possible that the weak should ever be protected?

Questions as to the *meaning* of treaties may often arise; and they must often be decided, so far as they affect individuals, at least, by some tribunal known to the laws. But to say that a particular branch of the government of one nation can *set aside* a treaty, in which another nation is interested, is altogether preposterous. Were a question to arise between France and England, as to the validity of a treaty, would England be satisfied with having the matter decided by the French court of cassation, or France with a judgment of the court of king's bench in Westminster-Hall?

One of the first objects of attention, after the organization of the general government under the constitution, was our public relations with the Indians. With the Creeks, occupying the region which now forms the central and south-western parts of

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the state of Georgia, no national treaty had then been made. They stood in a very threatening posture, in the vicinity of white settlements. They, with the aid of the neighboring tribes, could bring fourteen thousand warriors into the field. A quarter of that number would have been sufficient to keep the new settlers in a state of consternation, through an extent of five hundred miles on the frontier.

During the first session of the first congress under the constitution, viz. on the twenty-second of August, 1789, the President of the United States, attended by General Knox, came into the Senate, and laid before that body a statement of facts, proposing several questions for their advice and consent. Among these questions was the following: 'Whether the United States shall solemnly guaranty to the Creeks their remaining territory, and maintain the same, if necessary, by a line of military posts?' This question was answered by the Senate in the affirmative; and necessary funds were ordered, at the discretion of the President.

In pursuance of this advice and consent of the Senate, three distinguished men were appointed commissioners to treat with the Creeks; but, for reasons which we are not able to state, the negotiation was not successful. The next year, twenty-four Creek chiefs were induced to visit New-York, which was then the seat of government. A treaty was here negotiated by the secretary of war, under the immediate eye of General Washington. It was authenticated with uncommon solemnity, and appears to have been ratified by a unanimous vote of the Senate. The fifth article is in these words: 'The United States solemnly guaranty to the Creek nation all their lands within the limits of the United States, to the westward and southward of the boundary described by the preceding article.' It is impossible for any fair and honorable mind to doubt as to the meaning of this stipulation; and therefore we will not detain our readers with any remarks upon it.

On the 11th of August, 1790, General Washington, as President of the United States, transmitted to the Senate a special message, on the subject of our relations with the Cherokees. This was four days after the treaty with the Creeks was signed, during which interval it had been ratified. In the message, the treaty just formed was alluded to as 'the main foundation of the future peace and prosperity of the south-western frontier.' The President insists, however, upon the necessity of having

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'the treaties with the other tribes in that quarter *faithfully performed* on our part.' He reminds the Senate, that the Cherokees, by the treaty of Hopewell, had placed themselves under the protection of the United States; that the whites had subsequently intruded upon the Indians; and that Congress, in September, 1788, had forbidden such unwarrantable intrusions. He announces his determination to exert the powers intrusted to him by the constitution, in order to carry into faithful execution the treaty of Hopewell, and concludes his communication with the following question: 'Shall the United States stipulate solemnly to guaranty the new boundary, which may be arranged?' The Senate, by a resolution in almost the same words as the question, 'advised and consented solemnly to guaranty the new boundary.'

The President followed this advice; and the treaty of Holston was formed, July 2, 1791, by the seventh article of which, 'the United States solemnly guaranty to the Cherokee nation all their lands not hereby ceded.' The treaty of Holston is the basis of all subsequent negotiations. In the first treaty of Tellico, which was formed under the administration of the elder Adams, the United States stipulate, that they 'will continue the guaranty of the Cherokee country forever, as made and contained in former treaties.' Regular treaties, negotiated by commissioners with full powers, and all duly ratified by the Senate, were made with the Cherokees during every administration, down to that of Mr. Monroe, inclusive. There are fifteen of these most formal and solemn compacts. During all the period which has intervened since the date of the treaty of Hopewell, there has been constant intercourse with these tribes, by letters from the President and the war department, and by agents residing among the Indians, as organs of communication with them. All these transactions have been in accordance with the principles announced by General Washington, and recognised by his successors. The Indians were always made to understand, that their territory was to remain inviolate, unless they freely consented to part with it.

The intercourse-laws have all proceeded upon the same principles. Intrusion upon Indian lands is forbidden under heavy penalties, which are graduated according to the design of the intruder. Those acts which would indicate ownership, or which would alarm the Indians with the apprehension of a claim, are visited with peculiar severity. In the treaties, and

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in the laws, there are numerous provisions in relation to inferior subjects, which imply that the Indians had a government of their own, that was to continue permanently; and there is not a syllable, which has the most distant implication that the United States, or any separate state, claimed, or ever would claim, the right of legislating over the Indians, or exercising any power over them, not expressly given in the treaties. The last compact with the Cherokees, except one, was negotiated by General Jackson in 1817. The preamble states, that a part of the Cherokees wished to remove beyond the Mississippi, and a part wished to remain. The design of the transaction was to promote the views of both parties, and to give both an 'assurance of our patronage, our aid, and good neighborhood.' It was expressly stated, that those who remained were desirous of 'beginning the establishment of fixed laws and a regular government.'

Mr. Calhoun negotiated the last treaty with the Cherokees, in 1819. The preamble declares, in effect, that the Cherokees as a body wished to remain on the land of their fathers, with a view to their national preservation. It is implied, that the treaty was made to secure that distinct object. By the fourth article, a permanent school fund is created, which is expressly appropriated 'to diffuse the benefits of education among the Cherokee nation *on this side of the Mississippi.*' The next article extends the intercourse-law over the Cherokees, as a permanent protection; which, therefore, can never be repealed, as to the Cherokees, without their consent.

We have thus drawn a hasty outline of the principal stipulations, by which the integrity of the Cherokee country is guarantied, and the rights of the inhabitants secured. What other community is there on earth, that can show so many muniments erected for its defence, within the short period of forty-five years? What other community can show such a current of public transactions, all running with an irresistible tide in the same direction, and without meeting with any obstacle, that could make even a ripple? With what other people have the United States ever entered into stipulations, after so much consideration, and under circumstances of the same solemnity? The father of his country, soon after he was inducted into the office of chief magistrate of the United States, distinctly inquired of the Senate, whether they would advise him to offer a solemn guaranty of their country to the Creeks. Being answered in the affirmative, the guaranty was made as soon after-

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wards as a treaty could be negotiated. A year had elapsed, however, and the Senate was called upon to ratify the guaranty, which it had advised. This was done unanimously. The President then began a similar course in regard to the Cherokees. The same guaranty was proposed, given, and ratified; and, during the progress of these transactions, another year had elapsed. Thus, during the first Congress under the federal constitution, the question of guaranty was distinctly before the Senate, at least four times; and it was indirectly before that body, when commissioners were appointed; and probably on other occasions. The Senate was composed, in great part, of the very men, who had been members of the convention, by which the constitution was formed. It is incredible, that they should mistake the meaning of that instrument, on so important a subject. The same guaranty has been implicitly ratified in every subsequent compact. The terms of the stipulations are perfectly intelligible, so that there is no room for doubt, or cavil. If the United States are not bound by these engagements, how is it possible for a nation to bind itself? and how is it possible for a weak party to know, whether its rights are to be protected, or not? or rather, how much reason is there to fear, that a weak party has no rights, and that the law of force must always prevail?

It is admitted by some, that were it not for other obligations, by which the United States are bound to the several members of the Union, these treaties with the Indians would hold us as a nation. They suppose, that the obligations to the several states are prior to these treaties with the Indian tribes. But, after all that has been said and written on this subject, we have not seen the slightest evidence, that there are any incompatible obligations. Every treaty with every Indian tribe may, unless we are greatly mistaken, be fulfilled to the very letter; and yet no engagement, either express or implied, now in existence between the United States and any separate state, or any community, or individual, would be in the least danger of violation.

The claims of Georgia, under the compact of 1802, are supposed to form the strongest case of incompatible obligations; and we admit that these claims have been so represented, as to puzzle some intelligent minds. If fairly stated, however, they furnish no occasion for doubt or embarrassment, on the part of the general government, or of complaint on the part of Georgia.

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It is contended, by the advocates of Georgia, that the declaration of independence, sustained by the revolutionary war, and confirmed by the peace of 1783, vested in that state all the rights of the British king to the land within its chartered limits; and that the United States have guarantied to each state all its rights of territory and government. The United States were, therefore, at the date of the treaty of Hopewell, bound to Georgia by an obligation incompatible with the terms of that treaty. This being the case, the first obligation must remain inviolate, and compensation must be made for the violation of the second.

Upon this statement, we cannot help remarking, that, if true, it is a most humiliating one. The articles of confederation were considered and adopted by the wisest men, whom the country was able to send to Congress, in the brightest period of our history. Our relations with the Indians were fixed by the same men, at the same period. Both subjects were in the highest degree interesting to the whole country. On the course which should be pursued toward the aborigines, depended in a considerable degree our national character, and the freedom of the frontier from the terrible and protracted calamity of an Indian war. And yet, with all these mighty interests at stake, they entered deliberately into clashing and contradictory engagements. If they did this, they must have made false representations to the Indians, on subjects of vital importance. They must have pretended to exercise powers which they did not possess; and, under the pretence of giving an equivalent, which they had no power to give, and for the loss of which they cannot make indemnity, must have obtained, from the poor, deluded, suffering Indians, terms of great value to the United States, and especially to the people on the frontier.

It is a great mistake, however, to suppose, that the worthies of the revolution committed an error so little in accordance with their general character, and of such disastrous issue to the Indian nations. Nothing but the most positive stipulations, absolutely irreconcilable to each other, should make us willing to admit the existence of such an error. We need not be alarmed for the reputation of our most eminent statesmen. There is not even an apparent discrepancy between the stipulations, either express or implied, of the states among themselves, and their united stipulations, as one party, with the Indians as another.

As to the succession of Georgia to the rights of the British

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king, it was settled before the revolution, that the King could not take actual possession of Indian lands for the use of his subjects, except in pursuance of treaties made with Indians; and as to the confederated states guarantying to each state the right of taking lands from the Indians by force, because these lands lay within the chartered limits of a state, the direct contrary was expressly provided. The United States were invested with the treaty-making power, under the confederation, as well as under the constitution; and this power was often and solemnly applied to the Indian nations. The confederated states, and not any one of their number, sustained a national character. Wars with the Indians were, and must be, sustained at the national expense. Treaties of peace and limits must of course be made by the nation.

Besides, the United States never admitted, that the separate states were entitled to what were called the crown lands; that is, the lands still remaining in the possession of the Indians, and reserved by royal proclamation for their continued occupancy. So far from guarantying the Indian lands to Georgia, the confederated states maintained, that whatever claim the whites had to these lands,—the claim to extinguish the Indian title by amicable purchase,—belonged to the United States, and not to Georgia. The claim was resisted by that state, and was finally put to rest by the compact of 1802.

In this compact, the cessions are mutual, or reciprocal. Georgia cedes to the United States all her 'right, title, and claim' to lands west of a certain line; and the United States cede to Georgia all their 'claim, right, or title' to lands east of the same line. The lands, which were thus ceded by Georgia to the United States, now constitute the states of Alabama and Mississippi. The cession was made on certain conditions; and among these conditions is an engagement, 'that the United States shall, at their own expense, extinguish, for the use of Georgia, as early as the same can be peaceably obtained, upon reasonable terms, the Indian title to the county of Talasse, and so forth, and to all the other lands, in the state of Georgia.' This is the stipulation, which is mainly insisted on, as imposing upon the United States the obligation of obtaining, at all hazards, the Cherokee lands for the use of Georgia. But the bare reading of the clause is sufficient to show, that the obligation is conditional. The title was to be extinguished '*peaceably*,' and 'on *reasonable terms*.' Of course, the Indians had the ac-

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knowledged power of keeping their country forever, if they pleased; and this would give Georgia no cause of complaint against them, or against the United States. In fulfilment of that stipulation, however, the general government has purchased the Indian country, as fast as the original proprietors would sell. In this process, the whole Creek territory, within the chartered limits of Georgia, has been obtained for the use of that state, and is now settled by its inhabitants. Portions of the Cherokee territory have also been ceded, so that twenty millions of acres, in the whole, have come into the possession of Georgia, since the execution of the compact. About five millions of acres still remain in the possession of the Cherokees, over which territory and all its possessors, Georgia claims the right of extending her laws.

Not only is the engagement with Georgia conditional, but the very terms of the conditions are inconsistent with the use of any means, but those of persuasion and argument. The Indian '*title*' is acknowledged as in existence, and is to be '*extinguished*,' before the lands can be obtained for the use of Georgia. Previously to that time, the United States had made no fewer than five treaties with the Cherokees, and two with the Creeks; and it was perfectly well known to the parties, that treaties were the only means, by which the Indian title could be extinguished.

In the very paragraph of the compact which contains the stipulation, it is stated, by way of description and recital, that 'the President of the United States has directed that a *treaty* should be held with the Creeks;' and, in a previous paragraph, the United States engage to open a land-office, 'for the disposition of the vacant lands thus ceded, to which the *Indian title* has been, or may *hereafter* be, extinguished.' It thus appears, that the very instrument, under which Georgia has pressed her claim, shows most conclusively, that no means of violence were to be used; that all public intercourse with the Indians was to be held by the United States; and that Georgia was to have no agency, direct or indirect, in extinguishing the Indian title.

There is another remarkable passage in the same instrument,—a passage inserted for the purpose of protecting the Indians in their rights, during all future time. Georgia made it an express condition, that any new state to be formed upon the ceded territory should conform to the articles, (one ex-

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cepted,) of the 'ordinance for the government of the territory north-west of the Ohio.' Among these articles, to which such new state should conform, is one, of which the following sentence constitutes a part: 'The *utmost good faith* shall always be observed towards the Indians; their lands and property shall never be taken from them *without their consent;* and in their *property, rights, and liberty,* they never shall *be invaded or disturbed,* unless in just and lawful wars, authorised by Congress; but laws founded in justice and humanity shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them.'

When the compact here under consideration was adopted and confirmed by the legislature of Georgia, the act declares, that the deed of cession is 'fully, absolutely and amply, ratified and confirmed, *in all its parts;* and is hereby declared to be binding and conclusive on the said state, her government and citizens, forever.'

Thus Georgia, in the most solemn manner, bound herself not to sanction any invasion or disturbance of the Indians in their rights, and secured the imposition of the same obligation upon new states afterwards to be formed. Consequently, when Mississippi and Alabama were admitted into the Union, the ordinance of 1787, containing the passage above cited, was expressly adopted by each of these states, as the indispensable condition of its admission.

In December, 1827, not three years ago, Georgia, by an act of her legislature, asserted the right of taking possession of the Cherokee country by force. She declared, that the Indians were tenants at her will, that she wanted their lands, and *would have them.*

It is not our intention, after all that has been said, to spend any words upon the reasonableness of this claim. There may be some use, however, in stating briefly, in how many ways, and for what length of time, Georgia has bound herself not to assert it.

1. Oglethorpe, the founder of the colony, and all his associates, went upon the ground that the Indians had a right to their own lands. He solicited permission to settle at Savannah; and every foot of territory, which he and his successors gained, was gained by treaties and defined by known boundaries. The engagements were numerous and positive, that whites should not intrude upon any lands, which the Indians had

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not sold. The general intercourse between the parties stood entirely upon this basis. The colonists came as friends of the Indians. In this character alone, and with a view to the permanent benefit of the Indians, did they plead for the cession of lands. For many years after the first settlement, they might have been cut off, in a single day, by the natives. In 1763, a treaty was formed at Augusta, in the negotiation of which, the governors of Georgia, the two Carolinas, and Virginia, and the King's superintendent of Indian affairs, were associated. All the southwestern tribes were represented, and their right to their own lands was in the strongest manner implied. Thus, in the infancy of the colony, and during forty-three years before the declaration of independence, the treaties, and the daily intercourse, were all in favor of the rights of the Indians.

2. In the course of the revolutionary war, various negotiations were held between the Cherokees, and the authorities of Georgia. A treaty was formed at De Witt's Corner, in 1777, by commissioners duly empowered by the States of South Carolina and Georgia, and by Indian councils. The whole aspect of the transactions is that of negotiations between independent powers, capable of binding themselves and their posterity. After the close of the war, several other treaties were made between the Cherokees and Georgia, acting as an independent State. All these treaties were negotiated upon the same basis as the preceding ones.

3. Georgia was one of the confederated States; and, during the existence of the confederation, the treaty of Hopewell was formed. Georgia remonstrated against it on the single ground, that it belonged to her, as a separate State, to treat with Indians occupying a part of the land within her chartered limits. She did not object to the great principles of the treaty; that is, a definite boundary and an implicit guaranty. Congress was not convinced by her remonstrance. On the contrary, a proclamation was issued by Congress, in 1788, to enforce the treaty of Hopewell; and preparations were made to march troops from the Ohio to defend the Cherokees against intruders, according to the stipulations of that instrument. In 1790, General Washington, in the second year of his presidency, declared the treaty to be in force, and expressed his determination to execute it. Thus, as a confederated State, was Georgia bound by this treaty with the Indians, as truly and firmly as by the peace of 1783 with Great Britain.

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4. The federal constitution provides, that all treaties previously 'made,' and all which should be made thereafter, shall be 'the supreme law of the land.' The treaty of Hopewell was then in existence. In the language of Mr. Bates,

'Georgia, by adopting the Constitution, agreed, at least, to *this treaty*. Nor is there the slightest foundation for the suggestion, that she did not intend to affirm this treaty. Let it be recollected, that this treaty was not only uniformly called a treaty, and known as such, but of all other treaties, this was most likely to be distinctly in view. 1st. Because it was the subject of her remonstrance to Congress in 1786. 2d. Because the boundary to which it related had been a matter of perpetual dispute between her and the United States; and, 3d. Because, when she adopted the Constitution, the proclamation of Congress was then before the people, requiring submission to this very treaty, and calling upon the army to enforce it against the citizens of Georgia. Of all subjects, therefore, which Georgia had openly and fully in view, this was the most prominent, made so by the important contemporaneous events which affected that State individually. But, independent of all this, it is enough that it was then deemed a treaty, and, as such, was made the supreme law of the land.' p. 239.

The constitution also provides, that treaties shall be made by the general government, and shall not be made by separate States; so that, by acceding to the constitution, Georgia bound herself in advance, as did every other State, to abide by every treaty which should be proclaimed as a treaty, by the competent authority of the nation. How is it possible, that this power could have been lodged in other hands, than those of the nation? And how can it be contended, for a moment, that every State is not bound by these highest acts of national sovereignty?

5. During the thirteen years, which intervened, between the organization of the federal government and the compact of 1802, seven treaties were formed between the United States and the Indian nations residing within the chartered limits of Georgia. The two first of these treaties, one with the Creeks, the other with the Cherokees, contain the articles of solemn guaranty, which have so often been mentioned. It is believed, that all these treaties received the unanimous approbation of the Senate. No advocate of Georgia has asserted, so far as we have been able to learn, that a single Senator of Georgia withheld his assent from any of these treaties. The treaty of

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Holston, containing the guaranty of the Cherokee country, was never made the subject of complaint in any form. The treaty of Tellico, in which the guaranty was declared to be *forever*, was negotiated by George Walton, an eminent citizen of Georgia, in honor of whom she has lately called a county by his name. Preceding treaties are, in this document, recognised as in force, 'together with the *construction* and *usage* under the respective articles; and *so to continue*.'

6. It has been shown at large, that by the compact of 1802, Georgia acknowledged the validity of treaties, and looked to them as the only legitimate method of extinguishing the Indian title.

7. Since the compact of 1802, ten treaties have been made by the United States with the Cherokees, and six with the Creeks; all in accordance with the principles of previous treaties. It is not intimated, that any senator from Georgia, or from any other State, objected to their ratification. By these treaties Georgia obtained possession of Indian lands, nearly equal in extent to all New England, except Maine.

8. All the constituted authorities of Georgia, including her Governors, legislators, Senators in Congress and Representatives, have uniformly, down to the year 1827, admitted the validity of treaties with Indians. The legislature and the delegation from that State in Congress, were in the habit of urging the United States to make new treaties with the Cherokees and Creeks. In 1819, the Senate and House of Representatives of Georgia addressed a memorial to the President of the United States, in which it is declared, that 'the State of Georgia claims a right to the jurisdiction and soil of the territory within her limits. *She admits*, however, that the right is *inchoate*, remaining to be perfected by the United States, in the *extinction of the Indian title*.' In 1825, the Governor of Georgia, now a Senator in Congress, commanded obedience to a treaty with the Creeks, as the supreme law of the land. The last commissioners, who attempted to treat with the Cherokees, (both of them citizens of Georgia), announced in writing, that the United States alone could negotiate with the Indian nations, or extinguish the title to their lands.

In these various ways has Georgia, during the whole period of her existence, from 1733 to 1827, acknowledged the necessity of obtaining the Indian territory by amicable treaties. All her eminent statesmen,—all her constituted authorities,—have

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united in the expression of this opinion, and in acting according to it. How is it possible, that a State should ever be bound, if Georgia is not bound by these transactions? If England were bound to France by stipulations, which could be supported by a thousandth part as much evidence as exists on this subject, and should refuse to acknowledge the obligation, the whole civilised world would denounce her as regardless of her faith. Yet, so many plausible words have been used, and there has been so much parade of reasoning on the subject of State rights, and conflicting powers, that some respectable and honorable men have been misled. The scene is distant from the northern States. A dimness is cast over the whole subject, in many minds, as to the condition and rights of Indians living in the woods.

We have thought it might be useful, therefore, to change the scene, and to state a case perfectly parallel, though relating to a different tribe, and a different State, in order to make the matter so plain, that it cannot be misunderstood.

Let us suppose, then, that one of the New England tribes of Indians, the Mohegans, for instance, were found on the arrival of the pilgrims, in possession of all the territory now contained in Massachusetts; that they permitted the first settlers to land, and received them as friends; and that they made new cessions of territory, as the settlements were extending. The whites encroached, difficulties arose, and wars succeeded; yet peace was repeatedly made, on equal terms, and by the establishment of a known boundary. This was the progress of things, we will suppose, till the commencement of the revolutionary war, when the Mohegans, having placed themselves under the protection of Great Britain, and being persuaded by agents of the mother-country, took up arms against the colonies.

We will proceed with the supposition, as though it were history, and without further interruption.

In 1777, Massachusetts held a negotiation with the Mohegans, by commissioners with full powers, when a peace was made and boundaries were fixed. Other treaties were made between the State and the tribe in 1783 and in subsequent years. Massachusetts, being a member of the confederation, a treaty was made with the Mohegans by the United States, in 1785, by which peace was established, prisoners were exchanged, reciprocity was observed on other important points, and an implicit

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guaranty of territory was given. Massachusetts protested against this treaty, on the ground that she alone ought to negotiate with Indians occupying a part of her chartered limits, but not denying the right of the Mohegans to their own country and government. Congress was not in the least moved from its purpose by this protest; but held that the United States had the sole power, by the articles of confederation, of making treaties with Indian nations, situated as the Mohegans then were. In 1788, Congress issued a proclamation against intruders with the express object of enforcing the treaty.

After the adoption of the federal constitution, General Washington declared the treaty of 1785 to be in force, and that he should use all the powers intrusted to him by the constitution to have it maintained with good faith. At the moment of making this declaration, he sent a special message to the Senate, proposing this question: 'Does the Senate advise and consent solemnly to guaranty to the Mohegans the lands which they occupy?' To which the Senate (the members from Massachusetts being present), unanimously answer in the affirmative. A treaty was formed in the year 1791, between the United States and the Mohegans, by which Connecticut river was made the eastern boundary of the Indian country, which then embraced what is now the western part of Massachusetts, the southern part of Vermont, the northwestern corner of Connecticut, and the part of New York which lies east of the Hudson river. In this treaty, 'the United States *solemnly guaranty to the Mohegan nation* all their lands not hereby ceded.' Many stipulations are made, and, among the rest, the Mohegans engage, that they will not form any treaty with a separate State. They grant to the United States the privilege of a road from Albany to Springfield, and permit boats to navigate the Housatonic river. The United States promise to give them implements of husbandry, that they may become herdsmen and cultivators, and with a view to their permanent attachment to their soil. The United States also engage, that, if any citizen of the United States shall go into the Mohegan country and commit a crime there, or do an injury to a peaceable Indian, such citizen shall be punished by the courts of the United States, in the same manner as if a similar crime had been committed within the jurisdiction of Massachusetts, or within any territorial district of the United States. The Mohegans, on their part, agree to deliver up for

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punishment any of their people, and any who take refuge in their nation, who have committed trespasses upon neighboring whites; and, in consequence of the various stipulations in their favor, they agree to be under the protection of the United States, and of no other sovereign whatever.

This treaty was ratified by the Senate unanimously, no member from Massachusetts, Connecticut, New York, or Vermont making any objection; and Massachusetts never having objected to the guaranty of 1791, down to the present day.

Seven years afterwards, another treaty was made with the Mohegans, negotiated by an eminent citizen of Massachusetts, acting as a commissioner of the United States, which expressly extends the guaranty of the Mohegan country forever.

Massachusetts having long had claims to western lands, which the United States would not acknowledge, a compact is formed between that State and the United States, in 1802. By this compact, Massachusetts cedes to the United States all her claim to the western lands, accepting as an equivalent a large sum of money and an engagement that the United States would extinguish the Mohegan title as soon as it could be done 'peaceably, and on reasonable terms;' several clauses in the compact implying, that the title was to be extinguished by treaty with the Indians, and that the treaty was to be made between them and the United States, Massachusetts having no agency in any such transaction.

After this compact, ten treaties were made between the United States and the Mohegans, all with the acquiescence of Massachusetts, and some of them at her solicitation. By these treaties, she acquired lands of the Mohegans, till their territory, so far as Massachusetts is concerned, was reduced to what lies west of the counties of Franklin, Hampshire and Hampden, where the Mohegan nation still remains, upon the ground derived from the immemorial occupancy of preceding generations. In one of these treaties, the Mohegans granted to the United States the privilege of a road, which should pass through their country from Rutland, Vermont, to Litchfield, Connecticut. In another it was stipulated, that the agent of the United States, residing among the Indians for their benefit, might cultivate land for a field and garden, so long as he should reside there in that capacity. In the last of these treaties but one, a treaty negotiated by the individual, who is now President of the United States, provision was

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made for the permanent residence of the Indians upon their hereditary possessions, and all preceding treaties were confirmed; and the very last, negotiated by the individual, who is now Vice-President of the United States, is declared to be formed for the preservation of the Mohegan nation; provision is made in it for a permanent school fund, to be expended in the country now occupied by that nation; and the intercourse-law of the United States is permanently pledged for the protection of the Mohegans against the whites.

In the war of 1812, the Mohegans sent a larger proportion of warriors than any State in the Union, according to their numbers, volunteering their services under the banners of the United States. They fought by the side, and under the orders, of the commander, who is now President of the United States. Some of their bravest and best men fell on the field of battle; and those, who survived, were cheered and applauded as faithful allies, and generous disinterested friends, fully deserving the guaranty, which they had received.

The State of Massachusetts, however, importunately presses the United States to extinguish the Mohegan title. The legislature all the while acknowledges, that treaties must be made by the United States, before the title can be extinguished. The Governor of Massachusetts, in 1825, proclaims treaties with the Mohegans to be the supreme law of the land. The Representatives in Congress from Massachusetts, as late as the spring of 1827, leave upon the records a formal protest against a law, which assumed that a certain treaty with Indians was void on account of fraud. The reason assigned by these Representatives was, that a treaty was an instrument of so high a character, that rights vested immediately on its execution, and it could not be set aside, even by a subsequent treaty, and for manifest corruption.

In the mean time, while these treaties, and laws for their execution, were carried into effect with the universal acquiescence of the rulers and people of every State in the Union, the Mohegans were making rapid improvements in civilisation. The Secretary of War (Mr. Crawford), whom we will suppose to be an eminent citizen of Massachusetts, and afterwards the idol of that State, took the lead in promoting the best interests of the natives. He wrote an official letter to invite the co-operation of benevolent societies with the government in measures for the intellectual and moral improvement of the Indians.

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From him the first impulse was received toward the support and establishment of schools, by the General Government, for the instruction of Indian children. Various efficient causes of improvement were in operation; and the Mohegans formed a regular republican government, upon the best models.

All these things were perfectly well known to the inhabitants of all the northern States. If a gentleman was travelling from Boston to Albany, he knew he was to pass through the Mohegan nation. He did pass through it. He knew when he crossed the limits. He saw the natives at work on their farms. He lodged at their houses. He visited their schools. He spent the Sabbath with them, and engaged with them in the most solemn ordinances of public worship. He read their newspaper, which was sent weekly into all parts of the United States. They told him what their relations with the United States were, and that they were accurately and minutely described in treaties. They added, that, in the execution of these treaties, white intruders had been repeatedly driven off, by the armed force of the United States.

The people of Albany, of Northampton, of Hartford, and of Rutland, came into the Mohegan nation, to witness the improvement of the Indian pupils; and the teachers returned these visits. All the people knew what the Mohegan nation was, and what its rights were, as solemnly guarantied by the United States. Not a State in the Union had its limits more exactly known, or its separate existence more positively guarantied.

But, while things were in this condition, Massachusetts suddenly resolves, in December, 1827, that she has waited long enough for the Mohegan lands; that, as she cannot get them by negotiation, she has a right to take them by force; that she will not resort to violence, however, till other means shall have failed; that the Mohegans never had any right to their country; that they are the tenants at will of Massachusetts; that their lands belong to her; that the King of England gave them to her two hundred years ago; and that she wants the Mohegan lands, and will have them. These things Massachusetts solemnly declares, before the world, in the year 1827, by resolutions adopted in both branches of her legislature; and she directs her governor to send a copy to the President of the United States, which duty was faithfully performed.

The next year, 1828, Massachusetts extends her laws over

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the Mohegans; and annexes all that part of their territory, which lies within her chartered limits, to the counties of Franklin, Hampshire and Hampden. She enacts at the same time, that no Mohegan, nor any descendant of a Mohegan, shall be either a party or a witness in a court of justice.

These measures she follows up, in 1829, by enacting, that if any Mohegan chief shall attempt to prevent the people of the tribe from emigrating, he shall be liable to imprisonment four years; and if any member of the tribe shall endeavor to prevent any chief from selling the whole Mohegan country, he shall be imprisoned not less than four years, nor more than six years.

When the civilised world begins to express astonishment at these remarkable doings, Massachusetts bestirs herself to produce arguments in justification; and her arguments are these.

1. She alleges, that the American aborigines were in a state of nature, when New England was first settled from Europe, and men in a state of nature can neither be entitled to property, nor to the protection of law; from whence she infers, that the Mohegans may justly be driven from their patrimonial inheritance, although they are not in a state of nature, but have lived by her side under the protection of international and municipal law, for two hundred years.

2. She alleges that, according to Vattel, erratic tribes, savages in the hunter state, may be required to give up a *part* of their lands to their more civilised neighbors for cultivation; therefore the Mohegans, who are not an erratic tribe, and not in the hunter state, but herdsmen and cultivators, may justly be ejected from *all* their lands, which they have derived from their ancestors, which they have neither forfeited nor sold, and which have been guarantied to them for ever by the United States.

3. She says, that it is an established principle, that barbarians should yield to civilised men; and therefore the Mohegans, who are not barbarians; who have demeaned themselves peaceably towards the United States for the last forty years; who have learned to read and write; who have a printed language of their own, and send forth a newspaper weekly, shall leave their native land and seek a residence elsewhere.

Not appearing to be altogether satisfied with these reasons, Massachusetts says, that she is to be the only judge of her own limits; that she shall defend her exclusive right to her own territory; and that writers of pamphlets, and reviews, have

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no business to meddle with her affairs: that, therefore, she is not bound by her assent to the constitution of the United States, which says, that the meaning and effect of treaties and laws are to be decided by the courts of the United States; nor by her own compact of 1802, which admits the Indian title, and prescribes the manner in which it is to be extinguished, if extinguished at all. In short, she declares roundly, that she will interpret all her obligations for herself, without asking the opinion of any one; or, in other words, that her present inclination is her only rule of duty.

Mutato nomine, de te
Fabula narratur.

This rapid sketch of supposed history is a faithful exhibition of the actual conduct of Georgia; though it is by no means so strong an exhibition, as a fuller statement would make it. How is it possible to doubt, that the south-western tribes of Indians, living on lands which they derived from their fathers, and within limits acknowledged and guarantied by the separate States and the United States, have a perfect original right, and a perfect right by compact, to the continued occupancy of their country, as long as they please to occupy it?

Those who urge the removal of the Indians say, that such a measure would be greatly for their advantage. Our limits do not permit us to enter at large into this question of utility. If the Indians remove to better their condition, it is manifest that their removal should be voluntary. They should have time to consider the subject. No threats should be used. They should have abundant opportunity to examine the country, to which they are to be removed. The territory allotted to each tribe should be designated, and the title made clear. It should be rendered certain, that they can be protected in their new residence, from the encroachments of lawless whites. If all this can be done, and the Indians, with an intelligent regard to their own welfare, uninfluenced by threats, or bribes, or false statements, shall voluntarily remove, there is probably not a man in the country, who would object to it.

Before a reflecting and benevolent man will take the responsibility of advising the Indians generally to remove, he will examine the subject thoroughly; and will gain satisfaction on several topics, some of which are the following.

In the first place, it should be ascertained, that there is good

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land enough, at the disposal of the United States, for the accommodation of all the tribes to be removed. The land should not only be capable of cultivation ultimately, but should now be in such a condition, that Indians can live comfortably and contentedly upon it. But a large tract of territory, which would answer this description, must be extremely valuable hereafter; much more valuable, than the remnants of their hereditary possessions, to which some of the tribes are reduced, and to which others might consent to reduce themselves, if they could rest secure in the guaranty of the United States.

In order to be certain as to the quality of the land, and to what extent it is habitable, accurate surveys should be made by competent and responsible agents; and ample opportunity should be given to the Indians to explore their future habitation for themselves.

Again; it should be made to appear clearly, that the Indians are to enjoy security in their new place of residence. This can be done in no other way, than by showing, in the most decisive manner, that they are to be protected where they now are. If they cannot be thus protected, it is futile to talk about protection any where. If they may now be dispossessed of their original inheritance, because they are within the chartered limits of states, they may hereafter be driven from the lands which they shall receive as a grant from the General Government, because they will then be within the national limits of the United States. The General Government can do no more, in regard to securing a title to the Indians, than the several States have done repeatedly. If these engagements of States, sanctioned, and most solemnly guarantied, by the United States, prove utterly insufficient to protect the Indians, how can the acts of the General Government alone afford any solid ground of confidence? Constitutional scruples now exist in one shape. Twenty years hence they will exist in some other shape; and, in whatever shape they exist, they may be made the pretext for taking Indian lands, unless compacts are to be executed according to the intention of the parties, clearly expressed in the compacts themselves.

Beside a guaranty of territory, these Indian tribes, before they remove, should have good reason to rely upon the protection of the United States against mischievous white intruders. For various reasons, which there is not room here to specify, the emigrant Indians will be much more exposed to

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renegados from civilised communities, than they are on the land of their fathers. The country to be allotted to the tribes, which shall remove, is much easier of access, than the present Cherokee nation. Steam-boats, with hundreds of intruders, can ascend the Arkansas into the heart of the Indian country. They will be allured thither by the money, which will be distributed for annuities, salaries, and rations. The victims of their rapacity will be numerous, and crowded together. The more easily the Indians yield to temptation, the less sympathy will be felt for them. The more protection they need, the less will they receive. Already, the emigrants, though comparatively few in number, experience these evils. The Cherokees of the Arkansas, who have removed only a hundred miles, have been terribly annoyed by dealers in whiskey since their removal. The reason is, that the emigrants were expected to receive a considerable sum of money from the United States, and greedy speculators were on the spot to profit by it.

If we may judge by a reference to the known principles of human nature, or by what has taken place already, we cannot suppose, that agents of the United States among the Indians will be men of sufficient virtue, intelligence, and public spirit, to make vigorous and persevering opposition to all the intrigues of self-interest; and unless this is done, the emigrant Indians will be destroyed.

If all the preliminaries can be fixed to the satisfaction of the Indians, and of the disinterested and intelligent portion of the American people, a removal may properly be commenced. But even in this case, the process should be gradual. Let the first trial be made by a small tribe, with great caution, and under the most favorable auspices. If this should prove successful, the larger tribes would have more confidence in the plan, and the government and people of the United States would see the need, and the benefits, of continued caution and vigilance.

There is no need of haste. Indeed, there is no apology for it. One of the Senators of Georgia said in his place, towards the close of the debate on the Indian bill, that *Georgia had a very inconsiderable interest in this question.* The friends of the Indians knew this perfectly well before; but they did not expect so distinct an avowal from such a quarter. One of the Representatives in Congress from Georgia, said, in private conversation, that *there is no necessity for removing the Indians.* No well-informed man can doubt the correctness of this re-

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mark. How, then, can the people of the United States justify to themselves, or to the world, a course of measures, which is not called for by any exigency, which appears inconsistent with the most obvious principles of fair dealing, and which, as many of the best and wisest men among us fully believe, will bring upon the Indian tribes either a speedy or a lingering ruin, and upon ourselves the deep and lasting infamy of a breach of faith?

The volume of speeches before us is a most interesting one. Some of the discussions may appear dry to those, who are not accustomed to elaborate investigations. But there are passages of high eloquence in several of the speeches; and we may say, what can very rarely be said in a similar case, that not a single argument of a doubtful character is relied upon, in favor of the Indians. All the main positions are not defensible merely; they are absolutely unassailable. The book and the separate speeches should be extensively circulated.

ART. VII.—*Studies in Poetry. Embracing Notices of the Lives and Writings of the Best Poets in the English Language, a copious Selection of Elegant Extracts, a short Analysis of Hebrew Poetry, and Translations from the Sacred Poets: designed to illustrate the Principles of Rhetoric, and teach their Application to Poetry.* By GEORGE B. CHEEVER. Boston. 1830.

If we may form a judgment of the estimate in which poetry is at this time held, from the general practice of the professors of the art, we shall certainly be led to believe, that its voice is as little regarded, as that of wisdom. All the great living masters of the lyre appear to have laid it by, in order to labor in a lower, though perhaps a more productive field. It is now about fifteen years since Scott, finding his poetical popularity on the wane, and doubtless a little dismayed by the portentous brilliancy of another ascending star, gave up all his powers to a different department of literature, with a vigor and success, that leave us little reason to murmur at the change. Campbell had forsaken the field much earlier, to employ himself in celebrating the merits of those, whom the world had reasona-

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bly expected him to rival. The fine genius of Coleridge is bewildered in the dim twilight of his strange metaphysics; Southey, with untiring diligence, has explored almost every practicable path of prose, as he had previously left scarcely any thing unattempted in rhyme; and Moore appears to have devoted himself to the task of erecting monuments to departed genius. This general abandonment of poetry, on the part of those who have cultivated it with the greatest success, is rather singular; and seems naturally to imply, that it enjoys less of the public favor now, than has been accorded to it in former times. Such, in fact, is the opinion of many, who believe that the world is growing too busy and consequential to attend to such light matters; that the active spirit of the age demands excitement of a different and superior character; and that men would now hardly stop to listen to the notes of inspiration, even were they uttered by an angel's voice. In part, this opinion is probably well founded; but it should not be forgotten, that we are very liable to error in forming judgments, which result from a comparison of the tastes and dispositions of men at this day, with those of generations which are past. The present is before us, while the past is at best but very dimly seen; and a disposition to complain of the prevailing taste is by no means peculiar to our own times. Goldsmith remarked with ludicrous bitterness, that the world made a point of neglecting his productions; and Akenside declared, that his opinion of the public taste would be regulated by the reception of Dyer's 'Fleece;' but the one was in error as to the fact, while the other may be said to have been mistaken in the law. Even if the justness of these complaints be admitted, they would only prove, that the most delightful music is at all times heard with difficulty amidst the din and crash of the enginery of practical life. The spirit of poetry is still present with him who meditates at eventide; with the worshipper of nature in her solitary places; with the contemplative, in their high and lonely tower; with him who is rapt and inspired by devotion; and even if it be driven from the haunts of crowded life, it still speaks to the soul in tones as thrilling and divine as ever.

While we admit, that what is called the spirit of the age, though the phrase is too often used without any very distinct perception of its meaning, is not very favorable to the cultivation of poetry, we must at the same time make due allowance for the operation of another cause—the influence of perverted

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taste. What else could induce men to welcome the inferior classes of romances, tales, and novels, which are hourly poured forth from the press in multitudes which no man can number? To what other cause can we attribute the reception of stories of fashionable life, written by those who are as little conversant with its recesses, as with the court of the Celestial Empire—and which, if the representation were perfect, could present no picture, on which the moral eye would delight to dwell? What but perverted taste could tolerate the audacious depravity of novels, which would fain teach us to look for the beatitudes in the person of the assassin and highway-robber—in which we are taught, that what men in their strange ignorance have deemed the road to the gibbet, is only the sure and beaten pathway to honor, and happiness, and successful love? A dark omen it will indeed be, if productions like these, on which the moral sentiment of the community ought to frown with deep, unequivocal, and stern indignation, shall permanently usurp the place of those, which minister to the desires of our nobler nature.

Upon looking back for a moment at the history of English poetry, we do not find many proofs, at any period, of a very just estimate of its object and excellences. To trace it beyond the reign of Edward III. is as hopeless, as the attempt to ascertain the course of the Niger; and whatever may have been the character of the earlier chronicles and romances, there is no reason to believe, that it was at all propitious to the influence and diffusion of correct taste. The genius of Chaucer, like that of his great contemporary Wickliffe, instead of being nurtured by the age, burst forth in defiance of it; but the hour was not yet come; and the poet's song was followed by silence as deep and lasting, as that which succeeded to the trumpet-call of the stern reformer. During the fierce civil wars, and until the reign of Henry VIII. there was no such thing as English literature. This was the period of the reformation and the revival of letters; yet it presents us with few names, which the lover of poetry is solicitous to remember. Love and chivalry have indeed given an interest to the melancholy genius of Surry, which is heightened by the recollection, that his unusual accomplishments were the only cause of his untimely and treacherous murder; but the poets of that time were little more than mere translators of the Italian; and Sir Philip Sidney, while defending poetry in general, is compelled

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to acknowledge the inferiority of that of his own country during the two preceding centuries. But the age of Elizabeth may well be considered as the era of its revival. This was certainly a period of high excitement, and distinguished for a bold and animated spirit of intellectual activity. Sir James Mackintosh has called it the opening scene in the political drama of modern Europe; it may, with almost equal justice, be denominated the opening scene of English literature. The splendid genius of Greece was just restored to the world; the 'earthquake voice' of the reformation had sounded through the vast of heaven; and the mind had indignantly burst the chains of protracted and ignoble bondage. Every thing seemed propitious for the exhibition of freedom and vigor, in every department of intellect; and in almost all, these qualities were signally displayed; but with the exception of one venerable name, we find scarcely a single example of great excellence in any but dramatic poetry; in which a degree of superiority was attained, which has thrown the efforts of succeeding ages completely into shade. It is true, that powers of a very exalted order are required for success in the higher class of dramatic compositions; but we can hardly consider that period as very remarkable for poetical excellence in general, which affords scarcely an example of any other. This direction appears to have been given to poetical talent by the taste of the court, the influence of which upon literature was subsequently very great. In the present instance, that influence, so far as it went, was highly favorable: the only cause of regret is, that it failed to extend to other departments of poetry, which were then struggling into existence.

At this time, the influence of the Puritans began to be felt. They were a class, who are hardly to be judged by the same rules which would be applied to the characters of other men, in ordinary times; and of whom it is somewhat difficult to speak in proper terms, either of praise or censure. We are not ashamed to say, that we look with admiration, and almost with awe, upon these stern patriots and martyrs; ambitious, but to gain no earthly crown; burning with enthusiasm, yet severe and immovable, as if inaccessible to human passion; inflexible and haughty to man, because reverence was due only to the Most High; despising all accomplishments and all learning, because they counted them as nothing, in comparison with religion and the word of God. But the state of feeling

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and opinion, which it was their great purpose to maintain, was in some respects false and unnatural. While they labored to elevate the mind, the tendency of some of their efforts could be only to degrade it. They saw literature prostituted sometimes to unworthy purposes; and they straightway denounced it all as an abomination. One might almost forgive this prejudice, if it had been founded on the writings of those, who have been strangely denominated metaphysical, as if metaphysics were only another name for every species of extravagance. These Malvolios of English literature, of whom Donne was the common father, and Cowley the anointed king, contented themselves with corrupting what the Puritans were anxious to destroy. Their writings appear to us to be a vivid delineation of the intellectual character and taste of King James; who by a cruel insult to the wise king of Israel, has been sometimes called the English Solomon. They found the age pedantic; and they labored with eminent success to render it still more so. Never did poetry revel in such wanton extravagance and absurdity. With them, sighs were breathed in tempests; tears were poured forth like the universal deluge; love was nothing short of a *coup de soleil* beneath the tropics; pride was the temperature of the arctic circle; and a lover's heart a hand-grenade. It is sufficiently obvious, that the taste for this extravagance was not created by those who thus employed it; for the prose writings of some of them, of Cowley for example, are full of simplicity, grace, and beauty. Indeed, the mere existence of the metaphysical style is a sufficient proof, that if the readers of poetry at this time were not indifferent to it, they were at least not very scrupulous in their selections. The most exalted eulogies were lavished upon Cowley; and even Milton did not refuse to praise, what he disdained to imitate. Signs of a more correct taste began to be visible, in the languid smoothness of Waller, and the correct mediocrity of Denham; but with what surpassing glory does the venerable form of Milton appear in the midst of an age like this! His grand and melancholy genius was almost as far removed from that of his contemporaries, as his immortal subject was elevated above all earthly things. So far from being indebted to his age, he was both beyond it and above it; and it is hardly too much to say, that he would have been beyond and above any other in the history of man. It is no reproach to his own, that men heard his voice, and comprehended it not;

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for what standard was there, among the poets of the time, by which they could hope to measure such elevation as his?

The stern rigor of the Puritans was at length followed by its natural reaction; and the literature of the age of Charles II. was a faithful transcript of the character of that degraded sensualist, and still more degraded king. It is easy to conceive, what the worshippers must have been in the temple of vice and folly, in which Sedley, and Etherege, and Buckingham, and Rochester, were chief-priests. 'The fools of David's age,' says Sir William Temple, 'those who have said in their hearts, there is no God, have become the wits of ours.' The personal character of a king is never without its influence, and in this instance it was all-powerful; but it was only for the purposes of evil. In the school of severe adversity, where the milder virtues are commonly taught, he had learned nothing but vice, disguised under the name of pleasure. Ridicule was the fashion of the day; and the subjects of that ridicule were all things that are venerable and holy. Depravity lost nothing of its evil, because it lost nothing of its grossness; it was tolerated in all its grossness, and adored in all its deformity. It was not surprising, that the want of just moral sentiment should be accompanied by the debasement of literary taste. Their tastes, as well as their fashions, were alike borrowed from the French, who returned the obligation by regarding England as a nation of barbarians. St. Evremond passed twenty years in England without acquiring the slightest knowledge of the language; while ignorance of the French language was regarded by the English as a greater crime than the violation of every precept of the decalogue. The worst defects of French literature were copied and exaggerated. Settle became a greater poet than Dryden, until the latter stooped from his mountain-height and the mid-day sun, to grovel in the dark recesses of a polluted theatre. The influence of a licentious court was visible also upon other minds; degrading powers which should have been devoted to high purposes, and repressing every display of natural feeling by a general chorus of ridicule and scorn.

In passing from this period to the beginning of the next century, we seem to be coming forth from the suffocation and gloom of the charnel-house to the fresh air and clear light of heaven. We shall have occasion presently to make a few remarks upon the characters of some of the most distinguished poets of that time; and we will only observe here, that we

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have no knowledge of any period in English history, in which poetry was the object of more general regard, than it was from the beginning until the middle of that century. The circumstances to which we have alluded, furnish sufficient evidence that the popular taste has been often perverted; but they give no evidence of indifference in regard to poetry, like that which is believed to prevail at this day. We call the present an age of great intellectual excitement; of keen and restless enterprise; and of deeper insight into hidden mysteries, than any of which the record has yet come down. Why then should the purest and not the least elevated department of intellect be regarded with coldness and neglect? The true object of poetry is to subject the senses to the soul; to raise the mind above all low and sordid purposes, and to fix its desires upon things which are honorable and high. If we receive it with indifference and scorn; if we refuse to listen to its voice, the loss is ours; we are casting away the surest means to lift our thoughts from the dust—the noblest instrument to elevate and purify the heart.

The moral tendencies of English poetry are such, on the whole, as the friend of virtue has much reason to approve. There have certainly been ominous examples of the degradation and perversion of exalted powers; but the waters of oblivion have already closed over some, and will sooner or later overwhelm the rest. It is idle at this day to say any thing of the moral influence of Chaucer; we might as well enlarge upon the absurdity of the Koran. Spenser, however, continues to be read, though not, we apprehend, by a large class of readers. There is abundant reason to regret, that the tediousness of the allegory, which constitutes the story of the 'Fairy Queen,' should have withdrawn from it the public favor; for it is the production of a mind overflowing with rich and powerful thought, and a fancy full of all delightful creations—the beautiful *ideal* of chivalry, when chivalry was only another name for a combination of all the virtues. The poet appears to have forsaken this lower sphere, to hold communion with superior beings; and how could it be expected, that the friend of Sidney and Raleigh—those brightest spirits of an age not wanting in generous and lofty ones—should be insensible to the influence of their romantic sentiment, as it was illustrated and personified in the moral beauty of their lives? It was their influence by which he was led to devote himself,

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not to the study and description of man as he is, but as romance and chivalry would make him. It was this, which induced him, instead of producing a grand historical picture, to which his powers were more than adequate, to execute fancy-pieces only—glowing indeed with richness and beauty, but deficient in the interest and life, which such talent, employed upon more propitious subjects, could not fail to bestow. He chose a department, in which many have failed, and in which scarcely any one but John Bunyan has succeeded; and how much of his power is to be attributed to the awful realities of his subject! Still, it is the praise of Spenser, that he consecrated his delightful harmony, his beautiful, and not unfrequently sublime description, and all the creations of an imagination of unrivalled splendor, and of invention almost boundless, wholly to the cause of virtue. Would that the same praise were equally due to his far greater contemporary! But Shakspeare wrote apparently without any moral purpose; he took the tales which ancient chronicles afforded him, or chance threw in his way, and by his inspiration he created a living soul under these ribs of death. If they gave him a moral, it was well. Now, we hear strains which seem to flow from a seraph's lyre; presently, those which the depths of vulgarity could hardly essay to rival. Moral dignity and disgusting coarseness, the loftiest sublimity and the lowest grossness, are occasionally blended together like the hovels and palaces of a Russian city. Ingratitude is denounced (and how denounced!) in the heart-rending agony of Lear; the dreadful penalty of guilty ambition and the keen anguish of late remorse are displayed with terrific power in Macbeth; while in Hamlet we see only a spirit crushed and broken beneath a burden which it cannot bear—faithful to duty, but over-mastered by the consciousness, that fate has imposed upon it a duty beyond its ability to do. But who can point us to the moral purpose of Romeo and Juliet, or the Merchant of Venice, or of Cymbeline? The heart, with all its high aspirings, its guilty depths, its passions, its affections and its powers, was laid full and open to Shakspeare's view; all the elements of incomparable genius, and every divine gift, were imparted to him with a liberality hardly ever vouchsafed by Providence to man before; but he looked upon man and nature without looking beyond them to the God of all; and thus the mind which was formed for all succeeding ages, and compounded of all imaginable

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glories, astonished, instructed, overawed, and delighted men, without making them better. It is presumptuous to say what Shakspeare might have been, when human eloquence can hardly adequately tell what Shakspeare was; but we believe that he was too often induced by a fancied necessity to sacrifice his own superior thoughts to the influences of an age which 'thought no scorn' of grossness, such as would sicken the purer, though not fastidious taste of ours. The descent was not wholly nor always voluntary; though the gratification of minds as far below his own as the sparrow's is lower than the eagle's flight, can hardly excuse the aberrations of an intellect like his.

The moral influence of the drama has not in general been of the most exalted kind. The reason of this is not that it is incapable of being rendered full of instruction; or that it is in its nature at all inferior in this respect to any other description of poetry. On the contrary, there is perhaps no form of composition in which the most elevated lessons can be brought more directly home to the heart—none in which those sentiments, by which our minds are said to be purified, can be more impressively or forcibly displayed. It may thunder forth its warnings and threatenings with the awful energy of inspiration; it may utter the burning accents of intense and overwhelming passion; it may allure or terrify us with the solemn persuasion of real and living example. In these respects, it occasionally goes beyond other poetry as far, as the quivering muscles, the distorted features and the convulsive agony of the victim of actual torture may be supposed to afford a more vivid idea of suffering, than the marble Laocoon. The evil is, that in holding the mirror up to life, it reflects all the images towards which its surface may chance to be directed. In the sister, but inferior arts of painting and sculpture, the human form is represented, not with its blemishes, not in its deformity, but with something of the purity of ideal perfection; and thus the representations of poetry, so far as respects their effect, should be adapted to the desires of the mind; they should present us, not with that which may sometimes be, for that would excuse all possible grossness; but in humble imitation of the obvious system of Providence, they should labor to exhibit virtue in all its loveliness and beauty, without throwing an unnatural gloss and attraction over sensuality and vice. How often have men forgotten, that the only true object, and all the real dignity of

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literature are lost sight of, when it is designed to charm only, and not to elevate! It may be said, that the purpose of the dramatic writer is to please, and his productions must therefore be adapted to the taste of his judges; but the cause of any fault can hardly be pleaded as its apology.

Passing over the dramatic writers, we come again to Milton. He stood apart from all earthly things. He may be likened to that interpreter of the mysterious things of Providence, who sits in the bright circle of the sun; while Shakspeare resembles rather the spirit created by his own matchless imagination, which wanders over earth and sea, with power to subdue all minds and hearts by the influence of his magic spell. The poetry of Milton is accordingly solemn and dignified, as well becomes the moral sublimity of his character, and the sacredness of his awful theme. His mind appears to have been elevated by the glories revealed to his holy contemplation; and his inspiration is as much loftier than that of other poets, as his subject was superior to theirs. It is superfluous to say, that his moral influence is always pure; for how could it be otherwise with such a mind, always conversant with divine things, and filled with the sublimest thoughts? Yet it has been sometimes said, that the qualities with which he has endued that most wonderful of all poetical creations, the leader of the fallen angels, are too fearfully sublime, to be regarded with the horror and aversion, which they ought naturally to inspire. He is indeed invested with many sublime attributes;—the fierce energy, unbroken by despair—the unconquerable will, which not even the thunders of the Almighty can bend;—but these qualities, though they may fill us with wonder and awe, are not attractive. His tenderness is only the bitterness of remorse, without end and hopeless; his self-devotion is only the result of wild ambition; and a dreadful retribution at length falls upon him, 'according to his doom.' In this exhibition of character, there is undoubtedly vast intellectual power, but there is nothing redeeming—nothing which can win the soul to love. We dread the effect of those delineations, in which crime, from which nature recoils, is allied to qualities, with which we involuntarily sympathise; such portraits are of evil tendency, because though unnatural, they are still attractive; but great crime frequently supposes the existence of imposing traits of character, which may excite admiration, without engaging sympathy. We are interested in Conrad, because his fierce and gloomy spirit is

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mastered by the passion, which masters all;—because in him it is deep and overwhelming, yet refined and pure—like the token, which restored the repenting Peri to Eden—the redeeming and expiatory virtue, which shows that the light of the soul, however darkened, is not extinguished altogether—and we do not ask, how purity and love can find their refuge in a pirate's bosom—we do not remember, that they could as hardly dwell there, as Abdiel among the rebel host. Not so the ruined Archangel. In him all may be grand and imposing, but all is dark, stern, and relentless. If there be aught to admire, there is at least, nothing to imitate. Through all the writings of Milton, there reign a loftiness and grandeur, which seem to raise the soul to the standard of his own elevation. The finest minds have resorted to them for the rich treasures of eloquence and wisdom; and they might also find in them the more enduring treasures of piety and virtue.

We have already found occasion to offer some remarks upon the literature of the age of Charles II. It is a subject, on which we have little inclination to dwell; but it is with sorrow and shame, that we see the influence of such an age exhibited upon a mind like that of Dryden. They drove him to devote powers intended for nobler purposes, to gratify the polluted tastes of a shameless court; and, by a just retribution, his dramatic compositions can hardly be said to have survived him; not one of them is at this day acted, or generally read. We see him first, embalming the blessed memory of the Lord Protector,—then, exulting in his Sacred Majesty's most happy restoration,—next, fabricating rhyming tragedies to gratify the French prejudices of a king, who was not ashamed to become the pensioner of France, or lascivious comedies to minister to the grovelling inclinations of the Defender of the Faith—presently, descending like one of Homer's deities, to the field of political and religious controversy. Thus the intellect, which was formed to illuminate the world, was quenched in the obscurity of low or temporary subjects; thus, with power to become a great reformer, he chose to follow in the track of vulgar prejudices; instead of asserting his just rank as a sovereign, he made himself a slave; and the result is before us in the fact, that his reputation is now almost wholly traditional, and would hardly be known otherwise, but for the noble Ode for St. Cecilia's day. We are not insensible to the unsurpassed excellence of his versification, or the blasting power of

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his satire; but the traces of elevated moral sentiment and of admiration or even perception of the grand and beautiful in nature and in character, are rarely to be discovered in his writings. Perhaps he was cautious of displaying what must have excited the immeasurable contempt of the wits by whom he was surrounded.

The beginning of the last century was distinguished by the genius of Pope; of whom nothing can now be said, that has not frequently been said before. There are still many, who persist in denying his title to the honors of the poetical character, with a zeal, which nothing but the ancient penalties of heresy will be able to subdue. If, however, he has been assailed by Bowles, he has found no vulgar champions in Byron and Campbell; and if he were living now, it would doubtless, in the language of Burke, 'kindle in his heart a very vivid satisfaction to be so attacked and so commended.' It is not easy to believe him to have been the least among the poets, who could shoot with such unequalled brilliancy into the upper sky, while Addison was still in the ascendant, and when the star of Dryden had hardly yet gone down. Nature was not perhaps always regarded by him with a poet's eye; for it seemed then, as if she was to be abandoned to pastorals; as if one might scarcely venture to go forth into the country, without arming himself with a shepherd's crook. But he was the poet of manners and of social life; and it is not the smallest of his merits, that he made poetry familiar to thousands, who had never felt its influence before. The tendency of his writings is precisely what might be expected from a knowledge of his character—a character, of which Johnson, whose praise issues forth like a confession extorted by the rack, is compelled to speak in general with commendation. Early and unrelieved infirmity rendered him irritable, while the unbounded admiration which was so profusely lavished upon him, made him vain; and both these qualities are abundantly exhibited in some of his writings, where the sins of his enemies are visited upon those who had never offended him, and character is wantonly invaded, apparently with the sole design of displaying his extraordinary power. In some instances, he aims to rival the unapproachable vulgarity of Swift; but the wit is a poor atonement for the grossness.

The Rape of the Lock was denounced by the frantic criticism of Dennis, as deficient in a moral; while Johnson, with

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his usual politeness, thought no moral more laudable than the exposure of mischiefs arising from the freaks and vanity of women. It is obvious enough, however, that Pope, except in the Essay on Man, and perhaps in his epistles and satires, had rarely any moral purpose in his view; but it would be difficult to defend the morality of the verses to the Memory of an Unfortunate Lady, or of some of his imitations of Chaucer. We are often told, that satire is a powerful auxiliary of truth; and there is no doubt, that even while indulging in the gratification of personal resentment, or any other equally ignoble passion, the satirist may promote that cause, by his denunciations of vice and folly; though the effect will certainly be diminished by the meanness of the motive. But he is too apt to grow so warm in the cause, as totally to overlook the higher object, in his zeal to overwhelm an adversary, or to take vengeance upon the world, for the fancied neglect or injury of a single individual. In addition to this, he is often seduced by the popularity which is sure to attend invective against some fashionable vice or folly, of which the succeeding age retains no traces; so that the fashion and the reproof soon perish together. His object may be a laudable one, though it will be far less important, and far less lasting in its effect, than it would be, if he should expose vice and imperfection as they exist universally, and at all times. The satires of Donne are now forgotten, notwithstanding the rich drapery which Pope thought fit piously to throw over his old-fashioned and somewhat ragged habiliments. Those of Dryden—as we have already intimated—were founded upon subjects of local or temporary interest. His Absalom and Achitophel was levelled at a faction, which soon experienced the fate of all other factions; his Medal was written upon the occasion of Shaftesbury's escape from the fangs of a grand jury; and his Mac Flecknoe, for the laudable end of exterminating his successor in the Laureate's chair. Young is less liable to this objection than any other English satirist; but great as was his popularity in his own day, his Universal Passion has sunk into obscurity. The Vanity of Human Wishes, and London, are the effusions of a nervous and powerful mind, more strongly tinctured with misanthropy and indignation, than with sound philosophy. In our own times, we have seen Gifford marching forth with the port and bearing of Goliath, against a host of butterflies, who naturally enough took wing, at the din and fury of his onset; and we have seen Byron also,

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visiting the coarse malignity of a single reviewer upon all his literary brethren, with a wantonness and injustice, which he was himself the first to regret. We may thus perceive, that if satire be the instrument of virtue, it is so often borrowed for other purposes, that virtue is not always able to employ it for her own; and when those other purposes have been accomplished, the benefit—if there be any—is not permanent. The artillery may remain, but the foe has vanished. Some of Pope's satires are of universal and lasting application; but the Dunciad is little better than a monument of wrath, erected in memory of departed and forgotten dunces.

The English poetry of the last century was, upon the whole, more elevated in its moral tone, than that of any former period. It may be considered as a cause as well as an evidence of this superiority, that some of the most eminent writers at its commencement, who exerted a powerful influence over public taste and sentiment, were men of pure and unquestionable character. Addison was then at the meridian of his stainless fame. He had taught the world a lesson which it was too slow to learn, that the attractions of wit and eloquence may gracefully be thrown around truth and virtue; and that in order to become a good and popular writer, it is not indispensably necessary to be an atheist and blasphemer. If he is deficient in the vigor and power of some of those who went before him, it should be remembered, that the character of his works was not in general such as essentially to require, or to afford very full opportunity for the display of either. His main intention was, to describe life and manners; to apply the force of ridicule to the foibles and follies, as well as to the faults and vices of social life; to present truth and morality in alluring colors, to those who had been previously disgusted at its stern and repulsive aspect; and it cannot be doubted, that as far as the influence of a single mind could go, this object was successfully accomplished. The same praise is equally due to Richardson, whose name seems now to be better known and more respected in other countries, than in his own. One who is led by curiosity to read his novels, though he cannot fail to read them with interest, and to admire the purity of the sentiment and the vivid delineations of passion, can yet hardly form a conception of their popularity when they first appeared. Addison taught the intellect and fancy, and Richardson the passions, to move at the command of virtue; the influence

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of both was great and extensive over the sentiments and taste of others; and we cannot but think, that much of the superiority of the period immediately succeeding that in which they lived to that which preceded, in refinement and delicacy at least, if not in morality, is to be attributed to the example which they gave. It is true, that the essentially coarse and vulgar minds of Fielding and Smollett, abounding as they did in humor and vivid powers of describing life and character, did much to weaken the impression which Richardson had made; nor was it owing to any want of effort, that they failed to corrupt moral sentiment completely. But they were not successful; and any one who will turn to Southey's Specimens of the later English Poets, (we cannot find it in our hearts to ask a fellow-creature to read them through,) will be surprised to find in how few instances morals and decency were disregarded or outraged by the poets, small and great, of any part of the last century. It is impossible to speak of any considerable portion of them at length, nor is it necessary. We will barely advert for a moment to three of them, whose writings are at this time more generally read than those of any of the rest. It may here be observed, however, that this period embraces very many names, particularly in the earlier part of it, of which England will long continue to be proud. With all its variety of excellence, there is little that savours of copyism or of affectation. What can be more unlike, than the mild sweetness of Goldsmith, and the gloomy magnificence of Young; the gentle pathos of Collins, and the homely strength of Johnson; the classical elegance of Gray, and the native simplicity of Burns?

There are few who do not love to contemplate the two great masters of descriptive English poetry, Thomson and Cowper; with whom we seem to converse with the intimacy of familiar friends, and almost to forget our veneration for the poets, in our love and admiration of the virtues of the men. Both had minds and hearts which were touched with a feeling of the beauty, and fitted to enjoy the influences of nature; and the poetry of both was elevated if not inspired, by religious veneration of the Great Author of the grand and beautiful. The view of Thomson was bold and wide; it comprehended the whole landscape; he delighted to wander by the mountain-torrent, and in the winter's storm; and it seemed as if the volume of nature was open and present before him. It is not so with Cowper. His lowly spirit did not disdain the hum-

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blest thing that bore the impress of his Maker's hand; he looked with as keen an eye of curiosity and admiration upon the meanest flower of the valley, as upon the wide expanse, glittering in the pure brilliancy of winter's evening, or bright with the dazzling glory of the summer noon. He made the voice of instruction issue from the most familiar things, and invested them with beauty, hourly seen, but never felt before; and he painted them all with the pure and delightful coloring of simplicity and truth. Who is there, but must wish, that Burns had held communion with such minds, and resorted to the fountain of their inspiration? We know not that he was inferior to either in quickness to feel, or power to describe, all that is bright and alluring in nature or in the heart; but there is something startling in the dark and fierce passions which overshadowed his better nature; in the wild and reckless blasphemy, by which he insulted man, and defied his God; in the stunning notes of that frantic debauchery, by which he was at length mastered, and brought down to the dust. The feeling of devotion steals upon him, like the recollections of earlier and happier years; love, pure and disinterested love, subdues sometimes the fury of his soul to gentleness and peace; his proud and manly spirit appears sometimes to burst its fetters, and restore the wanderer to virtue; but the effort is over, and it is vain. He sinks into the grave, friendless and broken-hearted, and his example remains, like a light upon a wintry shore, whose rays invite us, whither it would be death to follow.

We are unwilling to enumerate Rogers and Campbell among the poets of the last century, though the great works of both were published before its close, and though the latter part of it is so far inferior to the first, in the number of its illustrious poetical names, as to require some such addition to the list. The sweet music of both is associated with our most pleasing recollections. The lyre of Rogers resembles an instrument of soft and plaintive tone, which harmonises well with the memory of our early days; that of Campbell is no less sweet, but deeper and more powerful, and struck with a bolder hand. Both are in strict and constant unison with virtue. Indeed, with one or two ominous exceptions, it is delightful to perceive the moral beauty of the poetry of this age in general. Moore, it is true, is an old offender. He appears to have composed the lascivious prettinesses of his youth much in the same man-

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ner, as the unfledged votaries of fashion affect the reputation of grace and gallantry; and we occasionally find symptoms of love-making in his verses now, which it is high time for a person of his years and discretion to have done with. It is the recollection of these, which goes far to diminish the pleasure with which we should otherwise welcome his sacred and lyric song. But what shall we say of Byron, riven and blasted by the lightning of his own relentless passions—hurried onward, often against the persuasion of his better feelings, as the sailor's bark in the Arabian tale is dashed by some mighty and mysterious impulse, upon the fatal rock? The light that was in him became darkness; and how great was that darkness! His example, we trust, is destined rather to dazzle than to blind; to warn, but not to allure. We do not now remember any other high examples of this moral delinquency. In Wordsworth, we see a gentle lover of nature, always simple and pure, and sometimes sublime, when he does not labor to give dignity to objects which were never meant to be poetical. Southey's 'Gorgons and Hydras and chimeras dire' are well-trained; and the minstrelsy of Scott is of a higher strain than that of the times of which he sung.

Literature, in reference to its moral tendency, is of three kinds; one of which is decidedly pernicious; another, indifferent in its character, being neither very hostile nor very favorable to correct sentiment; and a third, decidedly pure and happy in its influence. By far the greater part of English poetry appears to us to belong to the last of these classes; but there are portions, and considerable portions too, which belong to both of the others. We seem hardly to have a right to claim, that it should always be actually moral; and yet the writer, who forgets this object, forgets one of the great purposes for which his talent was bestowed. There is another error for which poetry is responsible—that of presenting false views of life. Most young poets are as desperately weary of the world, as if they had traversed it, and found it all vanity. We learn from a high authority, that misery is the parent of poetry; but we should be led to believe, from the tone of many of our bards, that poetry is the parent of misery. Young proposed to draw a correct picture, in his True Estimate of Human Life. He published that part, which represented it in eclipse; but the bright side was unhappily torn in pieces by some lady's misanthropic monkey. In his Night Thoughts, life

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is painted in no very alluring colors; but the sunbeam breaks through the dark masses of the cloud. We do not complain of the satirists for this; for such is the very end of their vocation. The views of life which every writer presents, will be colored in some degree by his own circumstances, and state of feeling; but we suspect, that the most melancholy poets have not in general been the least inclined to enjoy the world in their capacity of men, and that they have often drawn more largely from imagination than experience. This fault, however, is not a very common one among English poets of the highest order. All their faults, indeed, are few and small in comparison with their great and varied excellences. We regard it as an extraordinary fact, that so little attention has been paid to English literature in general, by those who must be considered most competent to understand its value. Our systems of education make our youth familiar with that of early ages, and of other nations; an acquaintance with it is considered indispensably necessary for every gentleman and scholar; while little, comparatively very little, has been done to acquaint us with that which we may call our own, at the period of life when the heart would most deeply feel the beauty, and the ear be most sensible to the music of the 'Lowland tongue.' Until recently, no provision whatever has been made in our literary institutions, either to turn the attention of the student towards it, or to guide him in his voluntary inquiries. In our schools, English poetry has been employed as an exercise for teaching boys to read, from time immemorial; but nothing has been said or done to induce the pupil to believe, that the poetry was originally written for any other purpose. Now, without undervaluing the literature of other countries or of antiquity, we believe, that the business of education is only half accomplished, so long as our own literature is neglected. Within a few years, a better spirit has been visible; but we are not yet acquainted with any treatise upon the subject of English literature—any critical examination of its merits. The field is a broad one; and we trust, it will not long be justly said, that its treasures are within our reach, but that we have neither solicitude nor even inclination to gather them.

We are pleased with this volume, both because it offers an indication of a growing interest in the subject, and because the tendency of such works will be, to excite attention towards it. Mr. Cheever's selections in general afford evidence of

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correct judgment and cultivated taste. We should hardly, however, have extracted the poetry contained in the Waverley novels, in order to give the most exalted idea of Scott's poetical genius; or have given the 'Soldier's Dream,' as one of the best of Campbell's smaller productions; and we think that in his selections from Southey and Moore, the compiler might have drawn more largely from the earlier writings of the one, and the Irish Melodies of the other. Nor can we readily admit the equity of the rule, which allows to Graham and Bloomfield twice the space which is allotted to Pope. But these are small blemishes; and, after all, it is by no means certain, that readers in general will not approve his taste, at the expense of ours. The selections from most of the poets, are accompanied by well-written and discriminating sketches of the characteristics of their style. On the whole, though the compilation is stated to have been made for the use of the young, it is one, which persons of mature age may read with pleasure and advantage.

ART. VIII.—*An Epitome of Universal Geography, or a Description of the Various Countries of the Globe, with a View of their Political Condition at the Present Time.* By NATHAN HALE. Boston. 1830.

The author of this work is already known as a geographer by his excellent Map of New England and by several other valuable contributions to the science. It is understood that he has been employed for some years past in collecting materials for a more extensive work. The present publication has been looked for with a good deal of interest, and we think that it will fully satisfy the general expectation. It is a compendium intended principally for the use of schools, and better fitted for its purpose on several accounts than any other with which we are acquainted. The facts are selected with care and judgment, and stated with the well-known accuracy and exactness of the author. The political and historical parts are brought down to the present day, and include a notice of the most important events and arrangements of recent date in Europe and Spanish America. The mode of distributing the materials is, in our opinion,

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the best for the object in view. The work is accompanied by a list of questions, which facilitate the use of it to the instructer and the pupil.

In addition to its other recommendations, this compend includes a much greater number of maps than any one that has yet been published. This advantage has been obtained by the application of a new method of printing maps in the stereotype form, invented and patented by the author, and of which some specimens have already been given to the public in the Boston Daily Advertiser. By means of this method, our author has incorporated the maps into the body of the work, and thus at once facilitated the use of them, and enabled the student to economise more than half the expense, which has hitherto been necessary for the purchase of school-books in this department. The price of the volume is the same with that of the abridgements now in use, or a dollar, and as these require to be accompanied by an atlas, which costs, in the cheapest form, at least, a dollar and a quarter, the purchaser will be relieved from this additional charge, and will possess a collection of maps three or four times as large as that contained in a common atlas. This circumstance alone will, we think, be sufficient to introduce the work into general use in schools, and will give it an advantage over most of those that have lately been published of a similar description.

We have remarked above, that the method of distributing his materials, which has been adopted by Mr. Hale, and is in substance the same with that employed in the most approved preceding treatises, appears to us to be the best for the object in view. We are aware that some geographers of merit and reputation have lately adopted a different one, and instead of placing under the head of each particular country all the facts and materials that serve to illustrate its geography and history, prefer, for the basis and substantial part of their works, a more general arrangement, which is intended to give at once a complete view of the whole surface of the globe in reference to each of the ordinary divisions of a chapter. Thus instead of stating under the head of *France* and the *United States*, that these countries are situated in a temperate climate, they make a distinct head of *climate*, and class together under or according to their respective varieties of temperature all the different regions of the globe; and so of the other divisions. This system, though useful perhaps for certain purposes, is not, we think, so well

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adapted for young students as the one in common use. The great object in practical geography is to connect with the names of the different states and kingdoms of the globe the largest possible number of statistical, political and historical details, in order that when we meet with the name of any country in reading a book or a newspaper, we may immediately have before our minds the most important facts that are generally known or necessary to be known respecting it, or if we have not them already, may know at once where to look for them. This object is best accomplished by distributing the materials under the heads of the different countries, and thus making the name of each the key or index, which naturally suggests those belonging to it to the memory. For the merely scientific purpose of studying geography on the largest scale, the other arrangement might perhaps be preferable, although it is liable even for this purpose to the objection that it leads almost unavoidably to continual repetition, which, by swelling the size of the book, occasions of course a proportional expense to the purchasers.

Although we do not frequently notice works of a merely elementary description, we have felt it our duty to make an exception to our general rule on this occasion; and we do it with the more pleasure in favor of a writer to whom the readers of this journal are indebted for several interesting articles on subjects connected with geographical and statistical science. The work before us is intended immediately for the use of schools; but from its great accuracy and the care with which the materials have been compiled, will also be found for other purposes a very convenient manual.

ART. IX.—*Speeches made in the Senate of the United States, on occasion of the Resolution offered by Mr. Foot, on the Subject of the Public Lands, during the First Session of the Twenty-first Congress.*

The debates of a deliberative body, under a free government, are not always intended to settle particular points or despatch single matters of business, by a close discussion; but very often to produce general impressions, by a free interchange of thought, on a great variety of topics. The debates in Congress are complained of,—we have made the complaint

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ourselves,—as unreasonably long, discursive, and wanting pertinence to any matter in hand, which is to be decided, in the result of the debate, or influenced by the mode, in which it is conducted. But the instance now before us will sufficiently illustrate the fact, that a debate may possess the highest interest and really be of great importance, although it may be hard to tell what the subject is, or whether it has any subject.

Till the administration of Mr. Jefferson, it was the custom for each House of Congress to return an answer to the speech of the President, delivered at the opening of the session. In imitation of the British Parliament, from which also the practice of answering the speech was borrowed, it was usual to make this answer the occasion of a miscellaneous debate, on the general policy of the administration. This debate would naturally be as various in its topics, as the message of the President; and be likely to cover at least every contested point of public policy. In this way a debate arose, at the beginning of several sessions of Congress, previous to Mr. Jefferson's administration; which, as no particular point was at issue, and no specific legislative measure in discussion, may have been thought to be a waste of public time, or regarded perhaps as an occasion unnecessarily furnished for drawing into controversy the measures of the executive. By changing the form of the annual communication, from that of a speech to that of a message, the necessity of an answer was precluded. It would also appear, from Mr. Jefferson's letter to Congress, accompanying his message and announcing the change proposed to be made, in the practice of the executive, that there were some circumstances of convenience in Philadelphia, attending the personal communication to Congress of the presidential address, which did not exist in Washington.*

* As this is a matter, not without interest in the parliamentary history of the country, we subjoin Mr. Jefferson's letter.

'*December* 8, 1801.

'*Sir*,—The circumstances under which we find ourselves at this place, rendering inconvenient the mode, heretofore practised, of making by personal address the first communication between the legislative and executive branches, I have adopted that by message, as used on all subsequent occasions, through the session. In doing this, I have had principal regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs. Trusting that a procedure founded in

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Whatever were the motives, which dictated this change, (an advantageous one upon the whole,) it was wholly nugatory as a measure to suppress miscellaneous debate. The very nature of a representative government, and of free parliamentary bodies draws with it, as we have just intimated, the necessity of such debate. The utmost that can be done, by usage or parliamentary law, is, to impose some slight restraints on the times, at which it may arise, and the extent to which it shall be carried. The very session, when this change took place, in the mode of communicating the executive address, witnessed one of the most discursive political debates, that had ever arisen in Congress, that on the Judiciary. In the history of the session, it is said,

'From this period, the debate assumed the harshest features of party antipathy and prejudice. Few of the following speakers confined themselves to the merits of the question, while many entirely lost sight of them, in the vehemence of their feelings. Whatever of prejudice or of truth, that related to the past, present, or expected measures of the Government, was liberally and tiresomely repeated, until the patience of the House, apparently exhausted, no longer brooked delay.'

And after recording the final vote, on the passage of the bill, this writer adds, 'thus ended this gigantic debate.'*

We have on a former occasion,† considered somewhat at length the circumstances, which give a character to the style of debating in Congress, and will only here repeat the idea, that no effectual limits can be put to the number and length of the speeches, but those, which arise from press of business. Toward the close of each session, much important business passes through its final stages, with very little debate. In proportion as the business of the Union to be transacted by Congress increases, the pressure will begin to be felt earlier in the session; and the days and weeks now wasted on unimportant

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these motives will meet their approbation, I beg leave through you to communicate the enclosed message, with the documents accompanying it, to the honorable the House of Representatives, and pray you to accept for yourself and them the homage of my high respect and consideration.

TH: JEFFERSON.

The Honorable the Speaker of the House of Representatives.'

* History of the last session of Congress, which commenced December 7th, 1801. p. 70.

† North American Review for October, 1827. Art. VIII.

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topics, at its commencement, will be redeemed to assiduous legislation.

The debate in the Senate of the United States, at the last session of Congress, was every way remarkable; and for the importance of the nominal subject under consideration, the wide range of the general discussion, the number of the speakers, the ability of many of the speeches, and the transcendent power of that, which gives the chief notoriety to the debate, stands unsurpassed in interest, in our parliamentary annals. It would be foreign from the character of this journal, to take sides in those parts of this discussion, which were of a partisan character; but having from the foundation, devoted a portion of our pages to the discussion of very grave topics of elementary politics and constitutional law, we have judged it not improper to submit to our readers, those views, which have presented themselves to us, in the general reconsideration of this controversy. It would perhaps be self-deception to say, that we do this, *sine irâ aut studio, quorum causas procul habemus;* but, if we do not mistake ourselves, we do it with feelings, whether of favor or aversion, far beyond the range of ordinary party excitement; feelings chastened with the most solemn persuasion, that the welfare of this country, the happiness of our children to the end of time, and the cause of free government and liberty, throughout the world, are at stake, in the decision of the controversy carried on during the past winter in the Senate of the United States.

The occasion which led to the debate,—its ostensible subject,—is one of importance undeniably great, and on this we shall first say a few words. It is calculated, that the entire superficies of the States and Territories organized into the Federal Union, and of the vast region west of them to the Pacific, subject to the Federal Government, amounts to more than fourteen hundred millions of acres. Of this vast extent of country, the ultimate right of soil to one thousand and sixty-five millions of acres is still vested in the United States,—while the superficies of the States and Territories, as owned by the States or their citizens, amounts to less than three hundred and fifty millions of acres. It is true that, at present, these three hundred and fifty millions of acres, in which the United States have no right of soil, are geographically and physically of vastly greater importance than the thousand millions, which constitute the public domain. But with every year, or rather with every

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hour, the relative importance of the two portions of the country is changing; and when it is considered that within the portion, of which the right of soil is in the United States, are comprehended a large part of the States of Alabama and Mississippi, and a very great portion of Indiana and Illinois, east of the Mississippi, and almost the whole of the region west of it; it requires no very prophetic spirit to perceive, that whether surveyed in its economical or its political connexions, this question of the public domain of the country is prodigiously momentous.

There is a circumstance too, which makes it as delicate as it is important. There are about one hundred and seventy millions of acres of this land (including that to which the Indian title has not been extinguished) in the States of Ohio, Indiana, Illinois, Mississippi, Alabama, Louisiana, and Missouri; and there are about eighty-five millions of acres (also including those to which the Indian title has not been extinguished) in the territories of Arkansas, Florida, and Michigan, which territories will in the course of time, no doubt, become members of the Federal Union. In this way, we see, that immensely large portions of public domain are included within the limits of the state sovereignties. This circumstance will eventually give to the question of the public lands an interest not less commanding, than that possessed by the question of the Indians at the present day. Some of the States have advanced the claim, that the State Governments have a jurisdiction unshared by the United States, over all persons living within their boundaries;* and the President of the United States has decided, that he has no power to protect the Indian tribes, having treaties with the United States, against the exercise of that jurisdiction, it being in his opinion an essential incident of State sovereignty. In like manner, in several of the States, the claim has been set up, that the States, as an incident of sovereignty, possess the title to the soil of all the lands, not held by individuals, within their limits. No law has been passed, that we know of, by any State, to take possession of the public lands; as laws have been passed by three States, extending their jurisdiction over tribes of Indians, with whom the United States have subsisting treaties. But the State of Illinois has addressed a memorial to Congress, calling for a change in the

* This proposition, however, is obviously groundless in reference even to the free white citizens.

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mode of disposing of the public lands, within the limits of that State, and intimating, that if this call is not satisfactorily answered, grave questions will arise; and among them, 'whether in reality the compact, under which the General Government claims these extraordinary powers, is consonant to the rights reserved to the States respectively, by the Constitution of the United States, or has in any wise been granted by that instrument; and finally, *whether the tenure, by which they hold the public lands, is valid and binding on the new States.*' The memorial, from which we quote this passage, bears no date, but was presented to the Senate of the United States, on the second day of February, 1829. The Governor of Illinois, Mr. Ninian Edwards, had, in a message to the Legislature of that State, (as we have understood,) questioned in strong terms the title of the United States to the public lands, within the limits of the States. Notes to the same effect, but uttered with various degrees of confidence and authority, have been heard from two or three other States, both at home and on the floor of Congress. But Indiana alone, we believe, has undertaken to decide the question. On the ninth of January, 1829, that State adopted a resolution by all the branches of its government, in the following terms: 'Resolved by the General Assembly of the State of Indiana, that this State, being a sovereign, free, and independent State, has the exclusive right to the soil and eminent domain of all the unappropriated lands within her acknowledged boundaries, which right was reserved to her by the State of Virginia, in the deed of cession of the North Western Territory to the United States, being confirmed and established by the articles of confederation and the Constitution of the United States.'

It must be confessed, that this doctrine has found no great favor as yet in Congress. In his speech on the New-Orleans Road Bill, delivered in the House of Representatives last winter, Mr. Archer, of Virginia, having spoken, in the severest terms, of the insolence of injustice in the project of distributing the proceeds of the sales of the public lands in some rateable proportion among the States, and having observed that, 'coming as it did from a quarter, in which no cession of lands had ever been made, it might be supposed to labor under some defect of modesty, he added,

'It stood entirely acquitted, however, upon this score, by comparison with another, having reference to the same subject of

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lands. He alluded to the claim advanced recently in some of the new States, to the property of the whole of the public lands, comprehended within their respective limits, as a result of the character of sovereignty, which the United States had conceded to them, with this very condition annexed, of the reserve of this very property. A relation of war, between States, exposed *to seizure and forfeiture the property of either within the reach of the other.* A relation of the closest amity,—of incorporation into a common political community,—operated the same effect, according to the principle of the doctrine alluded to!"

Not less decisive is the censure of this doctrine, pronounced by a select committee of the House of Representatives, two years ago.* In their report on the subject committed to them they make use of the following (rather unduly severe) language:

'Encouraged by the success of these applications, several of the new States have now boldly *demanded* of Congress the surrender of the lands within their limits, although the sovereignty and right of soil were obtained by the treasure, or won from the Indians by the blood, of the citizens of the old States. These new States have affected to assert a right to what they, however, come before Congress to have awarded them by concession. Your committee will enter into no argument on the subject. These demands, the committee are disposed to believe, have been rather the acts of certain individuals, than the deliberate expression of the people at large. The patriotism of the citizens of the old States, who voluntarily conceded these lands to the *Union*, might here be placed by the committee in strong contrast with the want of that feeling in the citizens of the new States, who could seriously demand from the Union the surrender of all this invaluable property *to them alone.* But if any States have, in reality, an unhallowed desire *to get*, it may be useful to them to reflect that the other States have the power *to keep*, and that it is the *duty* of the representatives of these to know that if the national property is parted with, it is parted with only for the *general* advantage.'

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* This committee was raised on motion of Mr. James S. Stevenson, of Pittsburgh, and consisted, besides himself, of the following gentlemen: Mr. Earl, of New-York; Mr. Rives, of Virginia; Mr. Reed, of Massachusetts; Mr. Gale, of Maryland; Mr. Muhlenberg, of Ohio; and Mr. Gilmer, of Georgia. We have heard the report of the committee ascribed to its chairman, Mr. Stevenson. A large number of copies of it was ordered for distribution by the House of Representatives.

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We have perhaps gone far enough to show, that this is a subject of great delicacy as well as importance.

It is not our intention, at present, to go into a detailed discussion of the subject of the public lands; we may perhaps do that on another occasion. We wish only to make such further statements respecting it, as will illustrate the origin of the debate in the Senate, at the last session.

The public domain of the United States has been acquired chiefly by the cessions made to the Union by the old States, at the close of the revolutionary war; by the Louisiana purchase; and by the Florida treaty.

The peace of 1783 found the United States of America in possession of large tracts of unsettled country, to which several of the States respectively had already put in a claim of exclusive ownership, as being within their chartered limits. This right was strenuously contested by some of the States, possessing no lands in that condition; particularly New-Jersey and Maryland, and more especially the latter, which, on this ground, refused to accede to the confederation till 1781. The reader, who would understand the question of the right of the separate States to the unoccupied lands within their limits, would do well to read the instructions of the Maryland delegates to the Continental Congress, laid before that body, 21st May, 1779.* This controversy was happily quieted by acts of cession to the United States of the lands in question, executed by those States which had preferred claims to an exclusive title. In this magnanimous policy New-York led the way by an act of cession of 1st March, 1781. Virginia followed on the 1st of March, 1784; Massachusetts on the 19th April, 1785; Connecticut on the 13th September, 1786. By these various acts of cession the United States acquired the title to the territory north-west of the Ohio; being the territory out of which have since been formed the States of Ohio, Indiana, and Illinois, the territory of Michigan, and an extensive region west of it, which will probably be soon organised under a separate territorial government. The claim of the State of Virginia covered nearly the whole of this region; that of the other States enumerated was limited to a part. These claims had their origin in the royal charters, which extended the bounda-

* Secret Journal of Congress for Domestic Affairs, p. 433.

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ries of the several colonies from sea to sea, at a time when the geography of the country was so little understood, that the same region was granted to different colonies, by their contemporaneous or successive charters. Connecticut alone, in making her cession, reserved a tract of land, in the north-western part of Ohio, still popularly known as the 'Connecticut or Western Reserve,' which was afterwards ceded to the United States, on the 30th May, 1800; and by the United States to Ohio.* The sales by Connecticut of the lands in the district thus reserved, laid the foundation of her school fund.

Great reliance was had, during the revolutionary war, and under the old confederation, upon the public lands, as a resource for paying the debts contracted in the course of the revolution, and furnishing a permanent supply to the treasury. It is obvious, however, that the extent, to which these lands could contribute to any financial purpose, must depend on the progress of emigration and settlement; and these were seriously retarded by the inexecution of the British treaty; the hostile temper of the north-western Indians; and the troubles with Spain, relative to the navigation of the Mississippi. The indissoluble connexion of the progress of settlement, with the financial product of the land, would seem of itself to demonstrate the absurdity of some of the charges made on the Atlantic States, and particularly those of New England, in the course of the debate in the Senate last winter. Two of these charges were—the one, that these States looked, with an avaricious eye, to the public domain in the West, merely as a source of pecuniary benefit; and the other, that they endeavored to cripple the growth of the West: charges of which it may be enough to say, at present, that they are inconsistent with each other. We may only add here, that of the leading statesmen, who have recommended measures of that class, which has been construed into hostility to the West, General Washington and Mr. Jefferson are the most distinguished. Mr. Jefferson proposed to stock upper Louisiana with Indians, to serve, in his own language, as a *marechaussée*, to retard the emigration of the citizens of the United States, till the region east of the Mississippi was

* Report of the committee to whom was referred the consideration of the expediency of accepting from the State of Connecticut, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut, 21st March, 1800.

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filled up. General Washington urged the opening of artificial communications between the Atlantic and the Western States, partly, on the ground, that it would prevent the commerce of those states from descending the St. Lawrence and the Mississippi,—both of which, at that time, had their outlet in the dominions of foreign powers.

Prior to the adoption of the Federal Constitution, very limited sales were made of the public lands. Three tracts were sold by special contract. The first was 'The Triangle,' so called, a tract of land on Lake Erie, west of New-York, north of Pennsylvania, and east of the present State of Ohio; which was comprehended in the cessions to the United States, made by New-York and Massachusetts. This tract was ceded to the State of Pennsylvania on the 4th of September, 1788. It consisted of 202,187 acres, and the sum of 157,640 dollars was received for the sale of the lands. The second sale, prior to the Constitution, was that made to the 'Ohio Company,' of a tract of land on the Ohio and Muskingum rivers, originally intended to include about two millions of acres, but afterwards reduced, by the consent of the parties, to 964,285 acres. The price of these lands was two thirds of a dollar per acre, receivable in evidences of the public debt. The Ohio Company was formed by Winthrop Sargent and Manasseh Cutler, and commenced the settlement of the State of Ohio, then a wilderness uninhabited by civilised man, and now containing a population probably amounting to a million. The third of these sales was also in Ohio, to John Cleves Symmes, of the tract of land between the Great and Little Miami rivers. This sale, originally of one million of acres, was reduced by an alteration of the contract, and subsequently by a failure to perform its conditions, to 248,540 acres. On the lands purchased under this contract, were made the first attempts, which proved wholly successful, (though not the first in point of time,) to settle the territory north-west of the Ohio.

Bounty lands having been promised, by the Continental Congress, to the officers and soldiers of the continental army, it became necessary, as early as possible, to redeem that pledge. The controversies between the States and the United States, relative to the soil, retarded for some time the fulfilment of this purpose. On the 20th May, 1785, an ordinance was passed, for ascertaining the mode of disposing of lands in the Western territory, and this was the first act of general

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legislation on the subject. The system commenced by that act underwent several changes, but in some important features, it resembled the system now existing.* Under this system, very limited sales were made, amounting in the whole to not more than 121,540 acres, viz. 72,974 acres, at public sale in New-York, in 1787, for 87,325 dollars, in evidences of the public debt; 43,446 acres, at public sale at Pittsburgh, in 1796, for 104,427 dollars; and 5,120 acres at Philadelphia, the same year, for two dollars an acre. In the year 1800, on the 10th of May, an act was passed, laying the foundations of the present land system. It has received many modifications at subsequent periods; particularly in 1820, the very important modification of substituting cash sales for the credit system, and reducing the price to $1,25 per acre. This act itself was amendatory of one which had been passed in 1796.

Under this act, the substantial features of the land system of the United States are as follows. All the lands are *surveyed by the Government*, before they are offered for sale; and this is the great improvement in the land system of the United States, over that of Virginia in apportioning her military bounty lands, which were picked out and surveyed by individuals receiving warrants, and thus subject to conflicting claims, productive of interminable legislation. The lands of the United States, as surveyed, are divided into townships of six miles square; and these are subdivided into thirty-six sections a mile square, and containing 640 acres. The dividing lines run according to the cardinal points, and cut each other at right angles, except where navigable rivers or an Indian boundary creates what are called fractional sections. The superintendence of the surveys is committed to five principal surveyors. One thirty-sixth part of the lands surveyed, being section number 16, in each township, is reserved from sale for the support of schools in the township; and other reservations have been made for colleges and universities. All salt springs and lead mines are also reserved, subject to be leased by the President. All lands not reserved are, under proclamations by the President issued from time to time to that effect, offered for sale at public sale, for cash, in tracts not less than a half quarter section, or eighty acres, and at the minimum price of one dollar and twenty-five cents per acre. Lands not sold at

* Land Laws, new edition, p. 349.

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public sale are thenceforward subject to entry, at private sale, at the minimum price.* In addition to the fundamental principles of the land-law, numerous special laws have been passed, granting the right of pre-emption (that is, a prior right of entry at private sale), to the actual settler. But this and all other provisions of the law for the benefit of the actual settler have, in some districts, been rendered almost nugatory by unprincipled combinations of land speculators, who purchase the lands at public sale, at the minimum price, and then compel the actual settler to purchase of them, at an enhanced valuation. On the whole, the public obtains, on an average, little, if any thing, above the minimum price, although not a little of the land sold is of the best quality and worth several dollars per acre. Such lands are generally pre-occupied by intruders; and if not purchased of the government, at the minimum rate, by the land speculators just alluded to, the settlers themselves, by mutual agreement, forbear to bid on each other.

It appears that up to the present time about one hundred and fifty millions of acres of the public lands have been surveyed. Of these, thirty millions have not been proclaimed for sale; eighty millions have been proclaimed, but remain unsold; twenty millions have been sold, and as much more granted by Congress for education, internal improvement and other purposes. There are then one hundred and ten millions of acres surveyed but not sold; eighty millions of which are in the market, ready for entry, at the minimum price, at private sale; and thirty millions subject to be proclaimed for sale, whenever there is a demand. The annual expense of surveys, as they have hitherto been conducted, is sixty or eighty thousand dollars per annum, according to the statement of Mr. Foot, in his speech on the resolution moved by him.

And this brings us more particularly to that resolution, which was offered on the twenty-ninth of December last, and expressed in the following terms: 'Resolved, that the Committee on Public Lands be instructed to inquire into the expediency of limiting, for a certain period, the sales of the public lands to such lands only as have heretofore been offered for sale and are subject to entry at the minimum price, and also

* Most of the facts here stated may be found in Seybert's Statistical Annals; and in the new edition of the Land Laws, an excellent compilation, executed under an order of the House of Representatives, by the clerk of that body, M. St. Clair Clarke, Esq.

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whether the office of Surveyor-General may not be abolished without detriment to the public interest.'

When this resolution was taken up on the following day, it was opposed, on the ground that it was a part of a systematic policy for crippling the growth of the West, which had been pursued for forty years. That no such policy ever existed was, we think, satisfactorily shown, in the course of the debate that ensued, particularly by Mr. Sprague of Maine, in answer to Mr. Benton.

After the resolution had been debated, at no great length, for a day or two, in the form, in which it was originally offered, Mr. Woodbury moved an amendment to it, which went to reverse its character, and change it into an inquiry into the expediency of hastening the sales and extending more rapidly the surveys of the public lands. This proposition was variously opposed and sustained, till, on motion of Mr. Sprague and by consent of Mr. Foot, the original resolution was combined with the proposed amendment, and the inquiry was to be alternative, as to the expediency either of extending the surveys and hastening the sales, or suspending the surveys and abolishing some of the land-offices, as recommended by the late commissioner of the general land-office.

Thus far the resolution had encountered a fate not uncommon with resolutions of inquiry. It was probably brought forward without any plan on the part of the mover to pursue it vigorously to any act of legislation. It was debated, at no great length, chiefly on its merits, with the ordinary admixture of topics of present party interest. It received such modifications as prevented the Senate from being pledged by its adoption to any policy with regard to the public lands. It was then in a state to go to the committee and receive such destiny, as they might please to give it, most probably that of a statistical report, condensing into moderate compass the most important information on the subject of the surveys and sales of the public lands, and recommending such resolutions as the majority of the committee should agree in, and which, when reported, would have gone to rest on the table of the Senate. We do not make these remarks from any purpose of disparaging the resolution. It is the course, which the majority, we apprehend, of the resolutions of inquiry moved in either house are intended, or at least expected to take, when moved.

In this state of things, Mr. Hayne of South Carolina ad-

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dressed the Senate on the subject. We find the following abstract of his remarks, in a pamphlet edition of his Speech and the Second of Mr. Webster, published at Boston.

'Mr. Hayne, of South Carolina, now rose and said, that to oppose inquiry was not necessarily an unparliamentary course. Where information was really wanted or a policy questionable, it was proper to send the subject to a committee; but where there was full knowledge and fixed opinions, inquiry was neither necessary or proper. He concurred with the gentleman from Missouri, that it could never be right to *inquire into the expediency of doing a great and acknowledged wrong*. There were two great systems and two great parties in relation to the settlement of the public lands. One system was that which we had pursued, of selling the land at the highest price. Another was that of Great Britain, France, and Spain, of granting their lands for a penny or a peppercorn. He described the opposite results of these systems. That of the United States produced poverty and universal distress, and took away from the settler all the profits of labor. It drained the new States of all their money in the same manner as the South, by the operation of the tariff, was drained to enrich more favored sections of the Union. The South could sympathise with the West. If the opposite system had been pursued, who could tell how much good, how much improvement, would have taken place, which has not, in the new States? The important question was as to the future. He did not wish for a permanent fund in the treasury, believing it would be used for corruption. If he could, with the wave of a wand, convert the capitol into gold, he would not do it. But there was another purpose to which it was supposed the public land could be applied; viz. so as to create and preserve in certain quarters, a population suitable and sufficient for manufacturing establishments. It was necessary to create a manufactory of paupers, and these would supply the manufactories of rich proprietors, and enable them to amass great wealth. This doctrine was broached by the late Secretary of the Treasury.

'The lands were pledged for the public debt. This would be paid in three or four years. He was in favor of a system, which looked to the total relinquishment, at that time, of the lands to the States in which they lie, at prices, he would not say nominal, but certainly so moderate, as not to keep the States long in debt to the United States. In the course of his remarks, Mr. Hayne appealed to the gentlemen from the Atlantic States, if it was not true that the whole of their country was parcelled out and settled under the liberal system of Britain, instead of the hard and draining one, which we had hitherto pursued in regard to the

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West. Mr. Hayne urged the necessity of distributing the lands to the States, from a regard to State sovereignty and the tendency of such a fund to produce consolidation.

With this speech commenced the great debate; all before was mere skirmish. Mr. Webster, on the following day, replied to Mr. Hayne, in a speech, which has been reported at length. The important topics were the general defence of the policy, which had been pursued by the Government towards the new States, which Mr. Hayne had characterised as severe; the dangerous tendency to the Union of the doctrines current at the South, doctrines to which Mr. Webster thought that sanction was given by Mr. Hayne in some of his remarks; and the injustice of the charge against the Eastern States, that they encouraged the tariff policy with the hostile design of checking emigration to the West. In this part of his speech Mr. Webster maintained, that New England had, from the first, taken an active part in measures favorable to the settlement and growth of the West. Her statesmen introduced the plan of public surveys, and the Ordinance of 1787, the basis of the civil institutions and of the prosperity of the North Western States, was drafted by Mr. Dane, a distinguished citizen of Massachusetts. On this subject he made the following remarks, which it is necessary to quote for the understanding of what follows.

'Then comes, Sir, the renowned Ordinance of 1787, which lies at the foundation of the Constitutions of these new North Western States. We are accustomed, Sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character, than the Ordinance of 1787. That instrument was drawn by NATHAN DANE, then, and now, a citizen of Massachusetts. It was adopted, as I think I have understood, without the slightest alteration; and certainly it has happened to few men, to be the authors of a political measure of more large and enduring consequence. It fixed for ever the character of the population in the vast regions northwest of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to bear up any other than free men. It laid the interdict against personal servitude in original compact, not only deeper than all local law, but

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deeper, also, than all local constitutions. Under the circumstances then existing, I look upon this original and seasonable provision as a vast good attained. We see its consequences at this moment, and we shall never cease to see them, while the Ohio shall flow. It was a great and salutary measure of prevention. Sir, I should fear the rebuke of no intelligent gentleman of Kentucky, were I to ask whether, if such an ordinance could have been applied to his own State, while it was yet a wilderness, and before Boone had passed the gap of the Allegany, he does not suppose it would have contributed to the ultimate greatness of that Commonwealth? It is, at any rate, not to be doubted, that, where it did apply, it has produced an effect not easily to be described or measured, in the growth of the States, and the extent and increase of their population. Now, Sir, this great measure, again, was carried by the North, and by the North alone. There were, indeed, individuals elsewhere favorable to it; but it was supported, as a measure, entirely by the votes of the Northern States. If New England had been governed by the narrow and selfish views now ascribed to her, this very measure was, of all others, the best calculated to thwart her purposes. It was, of all things, the very means of rendering certain a vast emigration from her own population to the West. She looked to that consequence only to disregard it. She deemed the regulation a most useful one to the States that would spring up on the territory, and advantageous to the country at large. She adhered to the principle of it perseveringly, year after year, until it was finally accomplished.

On the subject of a hostility to the West evinced in the tariff policy, Mr. Webster made the following remarks.

'The gentleman alluded to a Report of the late Secretary of the Treasury, which, according to his reading or construction of it, recommended what he calls the tariff policy, or a branch of that policy; that is, the restraining of emigration to the West, for the purpose of keeping hands at home, to carry on the manufactures. I think, Sir, that the gentleman misapprehended the meaning of the Secretary, in the interpretation given to his remarks. I understand him only as saying, that since the low price of lands at the West acts as a constant and standing bounty to agriculture, it is, on that account, the more reasonable to provide encouragement for manufactures. But, Sir, even if the Secretary's observation were to be understood as the gentleman understands it, it would not be a sentiment borrowed from any New England source. Whether it be right or wrong, it does not originate in that quarter.

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'In the course of these remarks, Mr. President, I have spoken of the supposed desire, on the part of the Atlantic States, to check, or at least not to hasten, Western emigration, as *a narrow policy*. Perhaps I ought to have qualified the expression; because, Sir, I am now about to quote the opinions of one, to whom I would impute nothing narrow. I am now about to refer you to the language of a gentleman of much and deserved distinction, now a member of the other House, and occupying a prominent situation there. The gentleman, Sir, is from South Carolina. In 1825, a debate arose in the House of Representatives, on the subject of the Western road. It happened to me to take part in that debate; I was answered by the honorable gentleman to whom I have alluded, and I replied. May I be pardoned, Sir, if I read a part of this debate?

'"The gentleman from Massachusetts has urged," said Mr. Mc Duffie, "as one leading reason why the government should make roads to the West, that these roads have a tendency to settle the public lands; that they increase the inducements to settlement, and that this is a national object. Sir, I differ entirely from his views on the subject. I think that the public lands are settling quite fast enough; that our people need no stimulus to urge them thither; but want rather a check, at least, on that artificial tendency to the Western settlement, which we have created by our own laws.

'"The gentleman says, that the great object of Government, with respect to those lands, is not to make them a source of revenue, but to get them settled. What would have been thought of this argument in the old thirteen States? It amounts to this, that those States are to offer a bonus for their own impoverishment, to create a vortex to swallow up our floating population. Look, Sir, at the present aspect of the Southern States. In no part of Europe will you see the same indications of decay. Deserted villages—houses falling to ruin—impoverished lands thrown out of cultivation! Sir, I believe that if the public lands had never been sold, the aggregate amount of the national wealth would have been greater at this moment. Our population, if concentrated in the old States, and not ground down by tariffs, would have been more prosperous and more wealthy. But every inducement has been held out to them to settle in the West, until our population has become sparse, and then the effects of this sparseness are now to be counteracted by another artificial system. Sir, I say if there is any object worthy the attention of this Government, it is a plan which shall limit the sale of the public lands. If those lands were sold according to their real value, be it so. But while the Government continues, as it now does, to give them away, they will draw the

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population of the older States, and still farther increase the effect which is already distressingly felt, and which must go to diminish the value of all those States possess. And this, Sir, is held out to us as a motive for granting the present appropriation. I would not, indeed, prevent the formation of roads on these considerations, but I certainly would not encourage it. Sir, there is an additional item in the account of the benefits, which this Government has conferred on the Western States. It is the sale of the public lands at the minimum price. At this moment we are selling to the people of the West lands at one dollar and twenty-five cents, which are worth fifteen, and which would sell at that price if the markets were not glutted."'

Mr. Webster then quoted an extract from his own speech in 1825, in reply to Mr. Mc Duffie, and closed with moving the indefinite postponement of Mr. Foot's resolution.

Mr. Benton of Missouri followed, in reply, on the following day.

'He said, that if it had depended on New England,—he would proclaim it to the world,—not a settlement would have been made in the West. He repeated his arguments in relation to the Spanish treaty, and the non-settlement clause; he said the motive of the North, for acceding to the surrender of the navigation of the Mississippi, was to have Spain take train oil and codfish from us, *id est*, from *New England*. God save us, said Mr. B., from such allies. He joined issue with the gentleman from Massachusetts, as to the benefits conferred by the East upon the West.

'Thursday, January 21. Mr. Chambers, of Maryland, hoped that the Senate would postpone the discussion until Monday, as Mr. Webster, who had taken a part in it, and wished to be present at it, had unavoidable engagements out of the Senate, and could not conveniently attend.

'Mr. Hayne, of South Carolina, said that some things had fallen from the gentleman from Massachusetts, which had created sensations *here*, (touching his breast), from which he would at once desire to relieve himself. The gentleman had discharged his weapon, and he (Mr. H.) wished for an opportunity to return the fire.

'Mr. Webster. I am ready to receive it; let the discussion proceed.

'Mr. Benton, of Missouri, then continued his remarks, denying that the credit of framing the ordinance of 1787 was due to Nathan Dane; it belonged to Mr. Jefferson and the South. Mr. Benton said, that in New England there was a dividing line between the friends of the West, and those who thought it "unbe-

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coming a moral and religious people to rejoice at victory.' On one side was democracy; on the other, all that was opposed to democracy; the alliance of the latter party, offered yesterday to the West, he begged leave, in behalf of the West, to decline. On all the questions in which the West had an interest, the South had been its friend; and the North, if not all, at least its leaders, enemies! Massachusetts, who now came forward to offer an alliance, was found, on every question, opposed to generous, magnanimous Virginia.

'Mr. Bell, of New Hampshire, moved to postpone further discussion until Monday, which was negatived—Ayes 13, Noes 18.'

Mr. Hayne then proceeded with his speech in reply to Mr. Webster, which occupied the Senate for two days.

The exordium contained some caustic remarks on the manner in which Mr. Webster had engaged in the debate. In reply to Mr. Webster's allusion to Mr. Dane, as the author of the ordinance of 1787, Mr. Hayne stated that Mr. Benton had disproved that fact; and added, that Mr. Dane was known only to the South as a member of the Hartford Convention. Mr. Hayne insisted that the doctrines now advanced by Mr. Webster, on the public lands, differed from those contained in his speech of 1825, from which Mr. Webster had read an extract the day before. He alleged that the support, which New England had given to the measures of internal improvement, as favorable to the West, had commenced in 1825, and was dictated by political calculations. In reply to Mr. Webster's commendation of the ordinance of 1787 for its prohibition of slavery, Mr. Hayne commented at length on that subject, condemning what he regarded as the spirit and tendency of Mr. Webster's commendation, and denying that slavery was a source of political weakness in a community. In reply to Mr. Webster's remarks on the prevalence of doctrines at the South unfriendly to the Union, Mr. Hayne charged upon Mr. Webster a desire to promote the consolidation of the Government; and declared that the two great parties of anti-federal and federal were those which, under different names, had always divided and still divided the people of this country. Mr. Hayne on this head observed, that the anti-federalists, who came into power in 1801, 'continued *till the close of Mr. Madison's administration in* 1817, to exercise the exclusive direction of public affairs.' Mr. Hayne then commented with severity on Mr. Webster's course in respect to the tariff. In

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reference to the prevalence, in some quarters, of doctrines unfriendly to the Union, which had been referred to by Mr. Webster, Mr. Hayne stated that he considered such allusions as an unprovoked attack on the South, and particularly South Carolina, one of whose citizens, Dr. Cooper, was distinctly alluded to; and that he should consequently carry the war into the enemy's territory. This gave Mr. Hayne occasion, after asserting the patriotic conduct of South Carolina in the war of the revolution and of 1812, to endeavor to place in very disadvantageous contrast that of Massachusetts in the last war. In this part of his speech, Mr. Hayne made numerous quotations of documents, touching the proceedings of Massachusetts and the other Eastern States, against the war of 1812, ending with the Hartford Convention.

From this train of reflection, Mr. Hayne passed to the defence of the doctrine, that the several States of the Union, each in its sovereign capacity, have a constitutional right to protect themselves against unconstitutional acts of the General Government. Mr. Hayne, however, observed that as Mr. Webster had not examined this doctrine in detail, he should not, at present, do more than oppose to his authority that of the Virginia and Kentucky Resolutions of 1798 and 1799, and the Virginia Report of 1799: papers known or supposed to have proceeded from Mr. Jefferson and Mr. Madison. From these papers, Mr. Hayne made some extracts. He finally stated, that South Carolina had gone not a step farther than the statesmen of New England, and Mr. Webster himself had gone, in maintaining the right of opposing the embargo and other acts deemed by them unconstitutional. Mr. Hayne ended his speech in the following manner:

'Thus, it will be seen, Mr. President, that the South Carolina doctrine is the republican doctrine of '98; that it was promulgated by the fathers of the faith—that it was maintained by Virginia and Kentucky in the worst of times—that it constituted the very pivot on which the political revolution of that day turned—that it embraces the very principles, the triumph of which, at that time, saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt, when they believed themselves to be the victims of unconstitutional legislation. Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent as well as the limitations of its powers, it seems to me to be utterly subversive of the sovereignty

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and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power. If the Federal Government, in all or any of its departments, is to prescribe the limits of its own authority, and the States are bound to submit to the decision, and are not to be allowed to examine and decide for themselves, when the barriers of the Constitution shall be overleaped, this is practically a "government without limitation of powers." The States are at once reduced to mere petty corporations, and the people are entirely at your mercy. I have but one word more to add. In all the efforts that have been made by South Carolina, to resist the unconstitutional laws which Congress has extended over them, she has kept steadily in view the preservation of the Union, by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation. The measures of the Federal Government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest, a principle, which, substituting the discretion of Congress for the limitations of the Constitution, brings the States and the people to the feet of the Federal Government, and leaves them nothing they can call their own. Sir, if the measures of the Federal Government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorised taxation. These, Sir, are the principles which induced the immortal Hampden to resist the payment of a tax of twenty shillings. Would twenty shillings have ruined his fortune? No! but the payment of half twenty shillings, on the principle on which it was demanded, would have made him a slave. Sir, if in acting on these high motives—if animated by that ardent love of liberty which has always been the most prominent trait in the Southern character—we should be hurried beyond the bounds of a cold and calculating prudence, who is there, with one noble and generous sentiment in his bosom, that would not be disposed, in the language of Burke, to exclaim, "You must pardon something to the spirit of liberty!" '

We should the more regret the imperfection of the foregoing sketch of Mr. Hayne's speech, did we not know, that the report of it, revised by himself, has gone into far wider circulation than that of our journal. Our object has been merely to present the connected succession of its topics. It may be proper to remark, that this speech, like that of Mr. Webster,

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which followed it, was made in the presence of as crowded and intelligent an assembly, as was ever convened in the United States. The public attention was strongly excited, and the Senate-chamber thronged to overflowing. Mr. Hayne's remarks continued till the arrival of the usual hour of adjournment.

Mr. Webster commenced his reply on the following day. After repelling with severity the personal remarks contained in Mr. Hayne's exordium, Mr. Webster defended himself against the charge of an invidious allusion to slavery, and vindicated the course of the Eastern States generally in reference to that subject. In reply to the observation, that Mr. Dane was known to the South, only as a member of the Hartford Convention, he said, that the journal of that Convention, which *he* had never read, appeared to be now more studied in South Carolina than in New England. He denied that his views on the public lands, as expressed in his speech of 1825, differed from those which he had advanced at the commencement of the debate. He denied that the support of internal improvement, as favorable to the West, began in New England in 1825; and alleged, that when at the peace of 1815, he returned to Congress, he found the system of internal improvement becoming the favorite policy of the country at large, under the auspices of distinguished statesmen from South Carolina, whose lead he followed, though they appeared since to have abandoned the doctrine. He recurred to his views on the subject of consolidation, repeating that he had maintained 'the consolidation of the Union,' which had been recommended by General Washington and the convention which adopted the Constitution, not a consolidation of the Government. Mr. Webster next defended the course which he had pursued in reference to the tariff question; and then replied in general terms to that part of Mr. Hayne's speech, which was devoted to the conduct of the Eastern States during the war of 1812. Having disposed of this and the topics incident to it, the remainder of Mr. Webster's speech was taken up with what has been called the constitutional argument. He laid down the doctrines, which he proposed to contest, in the following terms:

'I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

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'I understand him to maintain this right, as a right existing *under* the Constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

'I understand him to maintain an authority on the part of the States thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it, and of compelling it to conform to their opinion of the extent of its power.

'I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority, is not lodged exclusively in the General Government, or any branch of it: but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

'I understand him to insist, that if the exigency of the case, in the opinion of any State Government, require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional.

'This is the sum of what I understand from him to be the South Carolina doctrine. I propose to consider it, and to compare it with the Constitution.'

Mr. Hayne having explained, that the doctrine which he asserted was no other than that of the Virginia Resolutions of 1798, which he cited, Mr. Webster replied,

'I am quite aware, Mr. President, of the existence of the resolution which the gentleman read, and has now repeated, and that he relies on it as his authority. I know the source, too, from which it is understood to have proceeded. I need not say, that I have much respect for the constitutional opinions of Mr. Madison; they would weigh greatly with me, always. But, before the authority of his opinion be vouched for the gentleman's proposition, it will be proper to consider what is the fair interpretation of that resolution, to which Mr. Madison is understood to have given his sanction. As the gentleman construes it, it is an authority for him. Possibly, he may not have adopted the right construction. That resolution declares, *that in the case of the dangerous exercise of powers not granted by the General Government, the States may interpose to arrest the progress of the evil.* But how interpose, and what does this declaration purport? Does it mean no more, than that there may be extreme cases, in which the people, in any mode of assembling, may resist usurpation, and relieve themselves from a tyrannical government? No

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one will deny this. Such resistance is not only acknowledged to be just in America, but in England also. Blackstone admits as much in the theory and practice too, of the English constitution. We, Sir, who oppose the Carolina doctrine, do not deny, that the people may, if they choose, throw off any government, when it becomes oppressive and intolerable, and erect a better in its stead. We all know, that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence, they may be changed. But I do not understand the doctrine now contended for, to be that which, for the sake of distinctness, we may call the right of revolution. I understand the gentleman to maintain, that without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the General Government, lies in a direct appeal to the interference of the State Governments.

'(Mr. Hayne here rose: He did not contend, he said, for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that in case of a plain, palpable violation of the Constitution by the General Government, a State may interpose; and that this interposition is constitutional.) Mr. Webster resumed: So, Sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for is, that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity.'

Mr. Webster, after these explanations, proceeded to argue the main question. He laid it down, that the Federal Constitution was the creature not of the State Legislatures, but of the people of the United States. If each State were competent to decide the constitutionality of acts of the General Government, different States would decide the same question in different ways, as they had done the question of the tariff, in connexion with which the present doctrines are mainly broached. He referred to the conduct of New England, in reference to the embargo, which was thought unconstitutional by the majority of the people of that part of the country, but submitted to after judicial decision. He inquired whence the States acquired the right which they are alleged to possess; and denied that they possessed it. He maintained that the supreme court of the United States was the tribunal provided by the people of

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the United States, for settling questions of the constitutionality of laws; and he denied the power of the individual States to decide these questions. He carried out into its practical consequences an attempt to execute a law of a State, nullifying a law of the United States, and showed that those consequences were treason and civil war; and dwelt, in a brilliant peroration, on the blessings of the Union. The usual hour of the adjournment of the Senate had arrived, when Mr. Webster closed his speech. Mr. Hayne, however, spoke for near an hour in reply, and has since given his speech in a more expanded form. Mr. Webster followed in a brief rejoinder.

Here the debate, as between these two gentlemen, terminated. It is well known, that the discussion was continued for several weeks, and that a large proportion of the members of the Senate took part in it. In its progress, almost every topic of great political interest was brought within its range. The several subjects already mentioned were further discussed, and numerous others were introduced. Many of the speeches were distinguished for learning, ingenuity, and power. To some of them we may perhaps have occasion to refer in the course of our remarks. But it would be manifestly impossible, as it would be aside from our purpose, to pursue the analysis of the debate.

It is scarcely necessary to remark, that, in the progress of the debate, the resolution was effectually lost sight of. At its close it was laid on the table. Since the termination of the session of Congress, a public festival has been held in Charleston, in honor of Messrs. Drayton and Hayne. On this occasion, connecting itself closely with the subject of the debate under consideration, the gentlemen just named addressed the company on the interesting topics in controversy, on which we propose to make some remarks. As the report of these addresses bears evident marks of having received the sanction of their authors, we shall not think it indelicate to allude to them in the residue of this article.

A great excitement has for some time prevailed in a portion of the Southern States of the Union. Several acts of the General Government are the alleged causes of this excitement. Some of these acts are considered as imposing heavy burdens on the Southern States, particularly the tariff laws; others are objects of alarm, as menacing the security of the property held in slaves; and others are condemned as subversive in a general

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way of the political system established by the Constitution of the United States, particularly the laws, by which appropriations are made for executing various works of internal improvement. We particularise these three grievances, as being those, which we believe to be considered the most prominent. They are those, which have been specified in several public acts at the South, particularly in a series of resolutions adopted by the Senate and House of Representatives of South Carolina in December, 1827, and presented to the Senate of the United States at the first session of the twentieth Congress. In the following year, a very elaborate Report was made by a special committee of the House of Representatives of South Carolina, accompanied by a protest against the tariff, which was adopted by both branches of the Legislature of that State, and presented by the Senators of South Carolina to the Senate of the United States. This protest has been publicly ascribed to the distinguished statesman, who now fills the office of Vice-President. This last document, after stating the reasons, for which the system of protecting duties is declared to be unconstitutional and oppressive, concludes as follows:

'Deeply impressed with these considerations, the Representatives of the good people of this Commonwealth, anxiously desiring to live in peace with their fellow-citizens, and to do all that in them lies to preserve and perpetuate the Union of the States and the liberties of which it is the surest pledge, but feeling it to be their bounden duty to expose and resist all encroachments upon the true spirit of the Constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent, do, in the name of the Commonwealth of South Carolina, claim to enter upon the Journals of the Senate, their protest against it as unconstitutional, oppressive, and unjust.'

This protest is supposed to express the opinions of a large majority of the people of several of the Southern States,—by whom the system of protecting duties is considered unconstitutional and oppressive.

We believe it may without injustice be stated, that the excitement existing on this subject, is considerably greater in South Carolina, than elsewhere. In that State and in reference to the present grievances, the doctrine has been avowed by numerous individuals collected at public meetings; by respectable citizens on various occasions; and particularly by members of Congress from that State in their places on the

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floor, that the several States of this Union possess a constitutional right, when laws unconstitutional and oppressive are passed by Congress, of interposing to arrest the evil. It has been intimated and asserted, that it is the right and duty of the Southern States to interpose in this way on this occasion; and the strongest assurances and menaces have been held out that South Carolina will do it.

We take up this subject with earnestness and in good faith. The discontent exists in a quarter, which we admit to be, in the highest degree respectable. It is encouraged by men of high character and distinguished talent. The burdens complained of are unquestionably believed to exist. The remedy suggested is supported by grave argument, and we shall gravely meet it. We shall say nothing in unkindness, nothing in levity, nothing in anger; although something in sorrow; but every thing in the spirit of union and fraternal feeling. The subject demands and would well admit an ample volume, but we have but a few pages left, and must compress our remarks into some desultory paragraphs.

It is alleged then, that the Southern States, and more especially South Carolina, being much aggrieved by unconstitutional laws of the Federal Government, have a right to interpose and nullify the said laws, and particularly those laws by which duties are laid on imports for the protection of manufactures.

It will readily occur, that the claim of a right of nullifying a law of the United States is somewhat vague and indeterminate in its acceptation. We do not know precisely, what is intended by it; and yet we must fix an idea of what it is, before we can reason for or against it. Mr. Hayne, in his speech at what is called the State Rights' dinner, given at Charleston on the 3d of July, says, 'The mode, in which these principles are to be brought into operation, when a case shall arise to justify their application, is a question concerning which there may exist much difference of opinion, and which it appears to me of no importance to decide.' In his speech 'on the Prohibitory System,' at the last session of Congress, Mr. Mc Duffie said, 'It is not for me to say in this place, what course South Carolina may deem it her duty to pursue in this great emergency. It is enough to say, that she perfectly understands the ground which she occupies, and be assured, Sir, that whatever attitude she may assume in her highest sovereign capacity, she will firmly and fearlessly maintain it, be the consequences what

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they may.' And farther on, 'But, Sir, in a case of extreme injustice and oppression, I will not stop to moot points of constitutional construction. I place the right and the obligation of a sovereign State to interpose the shield of its sovereignty between its citizens and oppression on much higher ground.'

It might at first blush be supposed, that Mr. McDuffie was here contending for the great and original right of revolution, a natural right of social man. But as nobody contests this right, and as Mr. Mc Duffie is not wasting his breath in asserting what nobody denies, we must suppose, that he, like Mr. Hayne, refers to some constitutional right, possessed by the State Governments, to protect the citizens of the States against unconstitutional laws of the General Government. But it is plain, that till we know precisely what this alleged constitutional right is, the discussion of it is idle.

Is it a mere right of *protest?* The Legislature of South Carolina, as well as of some other States, has formally protested against the obnoxious laws. Now we think a strong argument could be made against the constitutional right of the legislative branch of a State Government to remonstrate against a law of the General Government. Generally speaking, the constitutional right of remonstrance vests in the constituents or the subjects of a Government. Although the State Legislatures, in 1787—1789, had an agency in the formation of the Federal Government; and at subsequent periods have had, and have an agency, in creating both branches of the legislature and the executive, yet the State Legislatures, as such, are in no sense the constituents or the subjects of the General Government. The State Governments have been and are delegated to perform some acts touching the General Government. But they are not known to the Constitution, in any degree, as the regular depositaries of the constituent power. It may therefore be doubted, as we have observed, whether the State Governments have a constitutional right to remonstrate against acts of a Government, of which they are neither subjects nor constituents. The mere circumstance, that it is very convenient for the State Legislature to proceed on these subjects, by way of resolution, proves nothing. The stronger fact, that the State Legislatures are very apt to form themselves into a grand inquest of the Commonwealth, and express opinions touching the public weal, also proves nothing. Congress also acts by resolution with great convenience, and Congress is the grand inquest of the nation.

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But if Congress were to pass resolutions, touching the laws of Virginia, relative to the liability of real estate as security for debt, they would soon be told, that the said laws were constitutionally enacted by the Government of Virginia, which Government was not responsible to Congress.

For these and other reasons, we think the constitutional right of protest on the part of the State Governments questionable. We apprehend inconvenience from the presentation of these protests to Congress. Still, however, if the South Carolina doctrine, (we call it so not invidiously, but for convenience,) went no further than to assert the right of the State Legislatures *to protest* against the acts of the General Government, we should not think it a very serious matter; nor employ our time on this occasion in discussing it.

We cannot suppose it necessary, ourselves, to protest against being thought to encroach on the sacred right *possessed by the people*, to address the Government, either of the State or of the Union. 'The right of the people peaceably to assemble, and to petition the Government for a redress of grievances,' is one of the express guaranties of the Constitution; and were it not stipulated by the Constitution, it would be not the less a right. It is one of those rights, which could not be abandoned by any man, not even for himself. If he promised to-day not to petition against a grievance, he would have a right to petition to-morrow to be released from that promise.

Nor shall we now argue against the various modes in which it has been proposed by individuals, sometimes without responsibility and in a tumultuary manner, that South Carolina should exercise her right of interposition; such as a formal secession from the Union; or the declaration that Charleston shall be a free port. We suppose that no one will contend, that either of these acts would be *constitutional*. They are different modes, by which South Carolina, in an extreme case, would exercise the right of revolution. Supposing either to be done and South Carolina erected into an independent sovereignty, the city of Charleston, if driven by the rest of the State to extremity, would have the same right to constitute itself a separate Commonwealth—a new sovereignty;—and when this had taken place, every citizen and every slave in the city, would have a right, at his peril, if he chose, to make war on the rest of the people, to constitute himself an independent sovereign. But these rights are all natural, not constitutional· and they are

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rights, which Constitutions can as little recognise, as they can invalidate. They cannot be taken away, for they belong to our nature. They cannot be recognised by a Constitution, for they dissolve the social compact.

We should be disposed to reason much in the same way on the proposition, that the States, being the parties to the compact, must judge, each for itself, when it is infringed. If by this be meant, that the State Legislatures may express judgments on this subject, it is the case just considered. If it be meant, that the people of each State must judge for themselves, when their rights, as such, are invaded, we do not know that we should contest it. It has been said, by a writer, whom we shall quote more particularly in the sequel, (Mr. Mc Duffie,) that 'the States as political bodies have no original inherent rights.'* We will not now discuss that proposition, although it is very ingeniously stated, and connects itself, we think, with sound views of general politics. But it may, we think, be safely said, that the people of the several States, as such, have very few rights so peculiar, that they alone are the competent judges of their infraction. What right, for instance, has South Carolina, so peculiar, that she alone can judge as a people, whether it is invaded? Still, if the people of South Carolina, as such, have any peculiar rights, we admit, that they alone can judge for themselves of their infraction. But to what does such a proposition amount? Every man, and every body of men, that judges at all, must judge for himself or themselves. Nobody *can* do it for them; it is an act of the judging capacity. A man may follow another's judgment; that is, he may himself judge, that on any subject his friend's opinion is sound. If the doctrine in question, then, mean only that the people of a State can alone form a correct opinion, whether rights peculiar to themselves have been invaded, it is a sound, but exceedingly inconsequential proposition.

But South Carolina is not raising her voice for these metaphysical subtleties. She claims a substantial power, a right *to do* something; but what it is, may not perhaps be matter of agreement among those who agree in the claim.

The following extracts, however, will probably be consid-

* National and State Rights Considered, by 'One of the People,' in reply to 'The Trio.' Charleston. 1821.

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ered as stating, in the most authentic form, precisely what the nullification doctrine is. Mr. Hayne, in his second speech, says,

'But what then? asks the gentleman. A State is brought into collision with the United States, in reference to the exercise of unconstitutional powers; who is to decide between them? Sir, it is the common case of difference of opinion between sovereigns, as to the true construction of a compact. Does such a difference of opinion necessarily produce war? No. And if not among rival nations, why should it do so among friendly States? In all such cases, some mode must be devised by mutual agreement, for settling the difficulty; and most happily for us, that mode is clearly indicated in the Constitution itself, and results indeed from the very form and structure of the Government. The creating power is three fourths of the States. By their decision, the parties to the compact have agreed to be bound, even to the extent of changing the entire form of the Government itself; and it follows of necessity, that in a case of deliberate and settled difference of opinion between the parties to the compact as to the extent of the powers of either, resort must be had to their common superior, (that power which may give any character to the Constitution they may think proper,*) viz. three fourths of the States. * * * *

'But it has been asked, why not compel a State, objecting to the constitutionality of a law, to appeal to her sister States, by a proposition to amend the Constitution? I answer, because such a course would, in the first instance, admit the exercise of an unconstitutional authority, which the States are not bound to submit to, even for a day; and because it would be absurd to suppose, that any redress would ever be obtained, by such an appeal, even if a State were at liberty to make it. If a majority of both houses of Congress should, from any motive, be induced deliberately to exercise "powers not granted," what prospect would there be of "arresting the progress of the evil," by a vote of three fourths? But the Constitution does not permit a minority

* We cannot refrain from expressing the opinion, that the doctrine here advanced, as to the extent of the amending power, is wholly unsound; and in its consequences, it is surely open to all the objections urged by Mr. Hayne against the competency of the Supreme Court of the United States, to settle constitutional questions. Suppose three quarters of the twenty-four States should agree in an amendment of the Constitution, limiting the six smallest States of the Union to one Senator each. Would such an amendment be binding? We apprehend no more so, than an amendment made in defiance of the express reservations of the Constitution.

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to submit to the people a proposition for an amendment of the Constitution. Such a proposition can only come from two thirds of the two Houses of Congress, or the Legislatures of two thirds of the States. It will be seen, therefore, at once, that a minority, whose constitutional rights are violated, can have no redress by an amendment of the Constitution. When any State is brought into direct collision with the Federal Government, in the case of an attempt by the latter to exercise unconstitutional powers, *the appeal must be made by Congress*, (the party proposing to exert the disputed power,) *in order to have it expressly conferred, and until so conferred, the exercise of such authority must be suspended.*'

The following is the manner in which the doctrine is stated by Colonel Drayton, in his speech at the Charleston dinner:

'Our citizens, suffering under an act, which a great majority of them believe to be unconstitutional, have naturally been led to deliberate on the steps which ought to be taken, under circumstances so critical and momentous. Of the expedients proposed, that which seems most generally to be relied upon, is, through the medium of the Legislature, or of a convention chosen by the people, to nullify the obnoxious law, or in other words, to declare it unconstitutional; and to absolve our citizens from obedience to it, unless a contrary decision should be pronounced by three fourths of the Legislatures of the several States, or by a convention of the people in the same number of States.'

Supposing this to be the definition of the nullifying power, we will first observe, that it wholly fails of the support of the Virginia and Kentucky Resolutions. Those Resolutions, ascribed respectively to Mr. Madison and to Mr. Jefferson, have occupied the front rank in the authorities quoted in favor of the nullifying doctrine. Mr. Hayne, in his first speech, in reply to Mr. Webster, confines himself to this authority; and in his second speech, it is the most prominent topic of argument. Mr. Mc Duffie, in his few observations on the subject, in the speech above cited, appeals to no other authority; and generally speaking, the greatest pains are taken, and the strongest desire evinced, to identify the South Carolina doctrine of 1828, with the Virginia doctrine of 1798.

We repeat, then, that if the South Carolina doctrine be what Mr. Hayne and Colonel Drayton define it, viz. the right of a State to suspend the operation of a law of the General Government, till Congress has procured an amendment of the Constitution,

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granting the power to enact such a law, the Resolutions of Virginia and Kentucky give no authority to such a doctrine.*

The Virginia Resolutions were occasioned by the Alien and Sedition Laws; and the second of them is expressed in the following terms:

'That this assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact, to which the States are parties; as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid, than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have a right, and are in duty bound, to interpose for arresting the progress of the evil: and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them.'

This is the authority of the Virginia Resolutions. It goes only to a right of the States, (not, it will be observed, the State Legislatures,) *to interpose to arrest the evil.* This then settles nothing, as to the mode of interposition; and it is very clear, that if it is a constitutional right, it must be exercised in a constitutional mode; and till the contrary be shown, we are bound to suppose that the Virginia Resolution contemplated nothing but constitutional modes of resistance. This is not left to inference. The *seventh* resolution is in the following words:

'That the good people of this Commonwealth, having ever felt and continuing to feel the most sincere affection to their brethren of the other States, the truest anxiety for establishing and perpetuating the union of all, and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions of other States, in confidence that they will concur with this Commonwealth, in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each, for co-operating with this State in maintaining unimpaired

* We are prevented by want of space from remarking on the extreme inadequateness of the remedy proposed for a case, in which a sovereign State is oppressed by the General Government, viz. that whenever three quarters of the States conspire, the States in the minority must submit. This remedy appears to us open to all the objections made to the ordinary construction of the Constitution.

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the authorities, rights, and liberties reserved to the States respectively and the people.'

Here the States are exhorted to concur with Virginia, in declaring the laws unconstitutional. That of itself is no more than a protest, and though in our view of the subject open to exception, a measure, as we have said, not worth contesting. But then the States were also called on by Virginia, to adopt, each of them, 'the necessary and proper measures' for remedying the evil of these laws; and before the Virginia Resolutions can be appealed to, as authority for the South Carolina doctrines, it must be shown, or rendered probable, that among 'these necessary and proper measures' was that of refusing obedience to the law, till two thirds of the States had sanctioned it by an amendment of the Constitution. Is there a shadow of proof or presumption, that this was the fact? On the contrary, there is the strongest proof against it. These resolutions were communicated to the several States, and by many of them resolutions were passed, expressing dissent from the doctrines contained in them. In no one of these resolutions, is there any hint, that such was the purport of the Virginia doctrine; although it would have been natural for the States opposed to Virginia, highly dissatisfied as they were with her course, to represent it in a light as obnoxious as they could, with truth. But the proof does not stop here. In the session of the Virginia Assembly, following that when the resolves were passed, the responsive resolutions of the other States were referred to a committee, and from this committee Mr. Madison made his famous Report, reaffirming the principles of the resolutions of 1798. Toward the close of this Report, he is led to inquire into the objections to the seventh resolution, and on this subject he speaks as follows:

'It is lastly to be seen, whether the confidence expressed by the resolution, that the *necessary and proper measures* would be taken by the other States, for co-operating with Virginia in maintaining the rights reserved to the States, or to the people, be in any degree liable to the objections which have been raised against it.

'If it be liable to objection, it must be because either the object or the means are objectionable.

'The object being to maintain what the Constitution has ordained, is in itself a laudable object.

'The means are expressed in the terms "the necessary and

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proper measures." A proper object was to be pursued, by means both necessary and proper.

'To find an objection, then, it must be shown that some meaning was annexed to these general terms, which was not proper; and, for this purpose, either that the means used by the General Assembly were an example of improper means, or that there were no proper means to which the terms could refer.

'In the example given by the State, of declaring the alien and sedition acts to be unconstitutional, and of communicating the declaration to the other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported too by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

'It is no less certain, that other means might have been employed, which are strictly within the limits of the Constitution. The Legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or, they might have represented to their respective Senators in Congress, their wish, that two thirds thereof would propose an explanatory amendment to the Constitution; or two thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

'These several means, though not equally eligible in themselves, nor probably, to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States, a choice among the farther measures that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation.'

Here we see what sort of *means* were contemplated. They were, first, *declarations* that the laws were unconstitutional; secondly, *direct representations* from the Legislatures of the States to Congress, to obtain the repeal of the laws; thirdly, *requests to their Senators* in Congress to propose an amendment of the Constitution; fourthly, a concurrence of two thirds of the States to apply to Congress for a convention to amend the Constitution. These are all the measures which Mr. Madison suggests, and he introduces them by saying, that they are all 'within the limits of the Constitution.'

But there are one or two other interesting facts, connected

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with these resolutions. Great industry has been exerted to connect the terms *nullifying* and *nullification* with the Virginia Resolutions. Mr. Mc Duffie, in his speech above referred to, after quoting the Kentucky Resolution of 1799, 'a resolution drawn up (he says) by the hand of Thomas Jefferson,'—which we shall presently make probable not to be the fact,—in which resolution, 'nullification by the sovereign States is declared to be the rightful remedy for unauthorized acts of the General Government,' adds, 'the celebrated resolutions of Virginia maintain the same doctrine, in language equally explicit.' We have seen how far short the Virginia Resolutions come of this. But the case is very strong the other way. As those resolutions were originally drafted, the seventh of them set forth, that the Alien and Sedition Acts 'are unconstitutional, *and not law, but utterly NULL, void, and of no effect.*' The words in italics were, on motion of Mr. Taylor, of Caroline, who introduced the resolutions, stricken out, and as appears from the contemporaneous report, without a division.* So far, then, are these resolutions from sanctioning, in explicit language, the doctrine of *nullification*, that, in the only case where the word *null* appeared in them, it was stricken out, by general consent.

We will mention another amendment, which was made in these resolutions on their passage. The third resolution, as reported, ran, 'that this assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact, to which the States *alone* are parties.' This word *alone* was struck out, on the suggestion of Mr. Giles. It had been said, that the *people only* were parties to the compact; and the resolutions declared that the States alone were parties. Mr. Giles said, 'the General Government was partly of each kind;' and on this ground the word *alone* was stricken out.

If the people of the United States are in any degree parties to the compact, it will go very hard with the doctrine of nullification, which rests on the unsound theory, that the States are the only parties; and that the Union is a mere confederacy.

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* Debates in the House of Delegates of Virginia, upon certain Resolutions before the House upon the important subject of the Acts of Congress passed at their last session, commonly called the Alien and Sedition Laws. Richmond. Printed by Thomas Nicolson. 1798. pp. 171, 172.

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Mr. Hayne even compares the Constitution to a treaty between friendly sovereigns.

We will say another word of the Virginia Resolutions. We believe they contemplated and inculcate none but constitutional means, and intended to effect nothing but the repeal of the obnoxious laws, in the ordinary course of legislation, or by an amendment of the Constitution. Like the report of 1799 in defence of them, they are couched in temperate language, and breathe nothing but attachment to the Union. At the same time, it must be remembered, that they were the product of heated times. The country was then about equally divided into two parties, already excited, and daily becoming more inflamed in the contest. These resolutions emanated from the distinguished statesmen who led the republican party, then out of office; and who filled its two highest posts, on the change in the administration, which shortly ensued. We appeal,—not to heated partisans, but to candid men of all sides,—whether it is to such a period, and to such movements, that a wise politician would look for the most settled opinions, even of the men who directed those movements. At the same time, we must repeat, that the Virginia Resolutions and Report are written with a coolness and temper truly astonishing, when the time and circumstances are considered,—and worthy, in this respect, of being followed more closely as a precedent, than they have been in South Carolina, by the politicians who think they find a warrant for their doctrines in these resolutions.

These resolutions passed by a vote of one hundred to sixty-three, in the Virginia Assembly; a majority far from overwhelming, on such a question. Among those opposed to them, in the community at large, were some of the brightest names in the catalogue of the friends of State rights. We recommend to the consideration of our readers, and especially of our Southern readers, the following extract from a most valuable pamphlet, the production of a citizen of South Carolina, who does honor to his native State and his country.*

'Patrick Henry, in his last speech against the Constitution, had said, in 1788, (Wirt's Life, p. 297,) "If I shall be in the minority, I shall have those painful sensations, which arise from

* Speech of Thomas S. Grimké, delivered in December, 1828, on the Constitutionality of the Tariff, and the true nature of State Sovereignty. p. 6.

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the conviction of being overpowered in a good cause. Yet I will be a peaceable citizen. My head, my hand, and my heart shall be free to retrieve the loss of liberty, and remove the defects of that system, in a *constitutional way.* I wish not to go to violence; but will wait with hopes, that the spirit, which predominated in the Revolution is not yet gone, nor the cause of those who are attached to the Revolution yet lost. I shall, therefore, patiently wait, in expectation of seeing that government changed, so as to be compatible with the safety, liberty, and happiness of the people."

'What Patrick Henry meant by this "constitutional way," is explained in his speech to the people, at the election in 1798; for, although he was then nearly sixty-three, he offered himself as a candidate for the House of Delegates; because he believed the sentiments and conduct of his own Virginia, in relation to the Alien and Sedition Laws, to be unconstitutional, and dangerous. He said to the people,

'"That the late proceedings of the Virginia Assembly had filled him with apprehensions and alarm; that they had planted thorns upon his pillow; that they had drawn him from that happy retirement, which it had pleased a bountiful Providence to bestow, and in which he had hoped to pass, in quiet, the remainder of his days; that the State had quitted the sphere in which she had been placed by the Constitution; and in daring to pronounce upon the validity of federal laws, had gone out of her jurisdiction in a manner not warranted by any authority, and in the highest degree alarming to every considerate man; that such opposition, on the part of Virginia, to the acts of the General Government, *must* beget their enforcement by military power; that this would probably produce civil war; civil war, foreign alliances; and that foreign alliances must necessarily end in subjugation to the powers called in." Mr. Henry, proceeding in his address to the people, asked, "whether the county of Charlotte would have any authority to dispute an obedience to the laws of Virginia; and he pronounced Virginia to be to the Union, what the county of Charlotte was to *her*. Having denied the right of a State to decide upon the constitutionality of federal laws, he added, that perhaps it might be necessary to say something of the merits of the laws in question. His private opinion was, that they were "*good* and *proper*." But, whatever might be their merits, it belonged to the *people*, who held the reins over the head of Congress, *and to them alone*, to say whether they were acceptable or otherwise to Virginians; *and that this must be done by way of petition.* That Congress were as much our representatives as the Assembly, and had as good a right to our confidence. He

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had seen with regret the unlimited power over the purse and sword consigned to the General Government; but he had been overruled, and it was now necessary to submit to the constitutional exercise of that power. If, said he, I am asked what is to be done when a people feel themselves intolerably oppressed, my answer is ready:—*Overturn the Government.* But do not, I beseech you, carry matters to this length, without provocation. Wait at least until *some* infringement is made upon your rights, and which cannot otherwise be redressed; for if ever you recur to another change, you may bid adieu forever to representative Government. You can never exchange the present Government, but for a monarchy."—*Wirt's Life of Henry.* pp. 393—395.'

When the resolutions of Virginia were communicated to the other States, they were disapproved in counter-resolutions, by Delaware, Rhode-Island, Massachusetts, New-York, Connecticut, New-Hampshire, and Vermont. We mention these States, as being those whose counter-resolutions are appended to the Virginia Report of 1799. That other States not enumerated did not approve them, we take for granted. That any State responded to them, besides Kentucky, does not appear from any document within our reach. We believe no State but Kentucky concurred. It is stated particularly by Mr. Grimké, in his Speech above cited, page 4, that 'South Carolina took no part in the sentiments and conduct of Virginia in 1798, in reference to the Alien and Sedition Laws.'

It also deserves grave reflection, that whatever sanction the authority of Messrs. Jefferson and Madison might give to the South Carolina doctrine in theory, they give it none in its application. The Virginia Resolutions limit the right of a State to interpose, to cases of deliberate, palpable, and dangerous violations of the Constitution. The all-important question will then recur, is South Carolina now interposing in the case of *such* a violation of the Constitution? And in answer to this question, we find both Mr. Jefferson and Mr. Madison, not only not regarding the tariff laws as unconstitutional, but recommending them, in their highest official acts, from the year 1789 down. It is true that Mr. Jefferson, at a late period of his life, expressed opinions, that deliberate, palpable, and dangerous violations of the Constitution had lately been committed; but the tariff laws were not the acts to which he more particularly referred. In his letter to Mr. Giles, of December 26,

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1825, quoted by Mr. Hayne, there is a reference to the tariff laws 'as an indefinite assumption of power over agriculture and commerce,' but in the protest proposed about the same time, for the Legislature of Virginia, in 1825, we perceive no distinct allusion to the tariff. Mr. Hayne observes, that in that protest Mr. Jefferson declares 'the powers exercised by the General Government, in reference to the tariff and internal improvements, to be usurpations of the powers retained by the States, mere interpolations into the compact, direct infractions of it.' Upon looking into that paper, however, we find no certain allusion to the tariff. Internal improvement is the great specified grievance. At all events, we think, no judicious friend of Mr. Jefferson's memory could wish to make it appear, that in 1825, he maintained the tariff laws to be a violation of the constitution. Between such a sentiment and those contained in nearly all his messages and in his letters to Mr. Austin and Leiper, there is too wide a discrepancy, we think, to be reconciled to an honest diversity of opinion, on the same subject, contemplated at different times, under a change of circumstances. As to the Colonization Society, the project which more than any other appears to awaken the sensibilities of the South, Mr. Jefferson was warmly in favor of it, and in reply to the constitutional scruple held, 'that a *liberal* CONSTRUCTION justified by the object would go far, and an amendment to the Constitution, the whole length necessary,' and he leaves the subject '*with his admonition to rise and be doing.*' This is not the language of a man, who thought that the patronage of this society by the general government was a deliberate, palpable, and dangerous violation of the compact.

We will now revert to the Kentucky resolutions of 1798, which are admitted to have been drafted by Mr. Jefferson. In these resolutions, it is stated, that acts of Congress, made in virtue of powers not delegated, are 'unauthoritative, void, and of no force; that to this compact, [the Federal Constitution,] each State acceded as a State, and is an integral party; that the government created by this compact, was not made the exclusive or final *judge* of the extent of the powers delegated to itself; since that would have made its discretion and not the Constitution the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.'

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This falls very far short of an 'explicit' avowal of any right of extra constitutional resistance. It authorises in no degree, the assertion, that the measures of redress contemplated by the Kentucky resolutions, went beyond 'the limits of the Constitution,' which Mr. Madison, in his report, declared to be the boundary of those contemplated in *his* resolution of 1798, viz. measures of protest, instruction to Senators, and amendment of the Constitution. It must be remembered, that those opposed to the Virginia and Kentucky resolutions denied the right of the State Legislatures to pass them. This ground was taken by Patrick Henry, as we have seen, in the passage cited from his speech above. To meet such an opinion, the Kentucky resolutions declare it to be the right of the States to select their means of redress; and Mr. Madison, in his report, argues, that before the resolutions can be objected to, it must be shown that the means of redress contemplated, were not within the limits of the Constitution; and then enumerates those we have just mentioned. Farther than this, the Kentucky resolutions of 1798 do not go, and that we do not overstate this matter, will abundantly appear, from the following extract from the able and instructive speech of Mr. Johnston, of Louisiana, on the resolution of Mr. Foot, p. 36.

'I hold in my hand a letter from George Nicholas, of Kentucky, in November, 1798. He was a conspicuous member of the Virginia Convention—an able lawyer and statesman—a distinguished Republican, and a leading and influential man, in the day of the Kentucky resolutions. I read from this letter, to show the views entertained then of the remedy against unconstitutional laws. "If you had been better acquainted with the citizens of Kentucky, you would have known, that there was no just cause to apprehend an improper opposition to the laws from them. The laws we complain of may be divided into two classes, those which we admit to be constitutional, but consider as impolitic, and those which we believe to be unconstitutional, and therefore do not trouble ourselves to inquire as to their policy, because we consider them as absolute nullities. The first class of laws having received the sanction of a majority of the representatives of the people of the States, we consider as binding on us, however we differ in opinion from those who passed them as to their policy; and although we will exercise our undoubted right of remonstrating against such laws, and demanding their repeal as far as our numbers will justify us in making such a demand; we will obey them with promptitude, and to the extreme of our abilities, so long as they continue in force. As to the second class

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or the unconstitutional laws, although we consider them as dead letters, and therefore that we might legally use force in opposition to any attempts to execute them; yet, we contemplate no means of opposition, even to those unconstitutional acts, but an appeal to the *real laws* of our country. As long as our excellent Constitution shall be considered as sacred, by any department of our Government, the liberties of our country are safe, and every attempt to violate them may be defeated by means of law, without force or tumult of any kind."'

Thus much for the Kentucky resolutions of 1798. In 1799, it was deemed necessary to revive the subject and reply to those States, which had denied the doctrines of the preceding year; for no State as we have intimated in the Union had acceded to them. Accordingly, on the 14th of November, 1799, a new resolution was passed, in which it is said, that 'the several States, who formed that instrument, (the Constitution of the United States,) being sovereign and independent, have the unquestionable right to judge of its infraction, and, *that a nullification, by those sovereignties, of all unauthorised acts, done under color of that instrument, is the rightful remedy.*'

From this sentence is derived the appellation, which is given to the South Carolina doctrine; and on this sentence rests the claim of the sanction given by the resolutions of Messrs. Madison and Jefferson to that doctrine by that name.

To give assurance to this sanction, the Kentucky resolutions of 1799 are ascribed to Mr. Jefferson. Mr. Hayne, in his speech at the Charleston dinner, says that 'they are generally attributed to Mr. Jefferson;' Mr. Mc Duffie says, 'they were penned by his hand;' and the editor of the Banner of the Constitution, in republishing them, in his paper of 10th April last, together with the Virginia resolutions, gives them jointly the title of 'the Resolutions of Virginia and Kentucky, penned by Madison and Jefferson.' What it is of importance to state thus repeatedly and confidently, it is of importance to state correctly. We do not say that this Kentucky resolution of 1799, (for there is but one of that year,) certainly was not written by Mr. Jefferson; but we say there is a strong probability that it was not. It passed the House of Representatives of Kentucky on the 14th November, 1799. We have a letter of Mr. Jefferson, of the 5th of September, preceding, to Wilson Cary Nicholas, from which we make the following extracts.

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'I had written to Mr. Madison, as I had before informed you, and had stated to him some general ideas for consideration and consultation, when we should meet. I thought something essentially necessary to be said, in order to avoid the inference of acquiescence;* that a resolution or declaration should be passed, answering the reasons of such of the States, as had ventured into the field of reason; taking some notice too of those States, who have either not answered at all, or answered without reasoning. 2d. Making firm protestation against the precedent and principle, and *reserving* the right to make this palpable violation of the Federal compact the ground of doing in future, whatever we might now rightfully do, should repetitions of these and other violations of the compact render it expedient. 3d. Expressing, in affectionate and conciliatory language, our warm attachment to union with our sister States, and to the instrument and principles by which we are united, &c. * * *

'This was only meant to give a general idea of the complexion and topics of such an instrument. Mr. Madison, who came, as had been proposed, does not concur in the *reservation* proposed above; and from this I recede readily, not only in deference to his judgment, but because, as we should never think of *separation*, but for repeated and enormous violations, so these, when they occur, will be cause enough of themselves. * * *

'*As to preparing any thing I must decline it*, to avoid suspicions, (which were pretty strong in some quarters on the late occasion,) and because there remains still (after their late loss) a mass of talents in Kentucky, sufficient for every purpose. * * How could you better while away the road from hence to Kentucky, than in meditating this very subject, and preparing something yourself, than whom nobody will do it better?'

This letter makes it highly probable, that Wilson Cary Nicholas wrote the Kentucky resolution of 1799, if it is absolutely necessary to suppose that it came from Virginia; it makes it highly improbable that Mr. Jefferson wrote that resolution; and consequently, till proof or stronger presumption to the contrary is produced, there is no ground for quoting the Kentucky resolutions, drafted by Mr. Jefferson, as authority for the term 'nullification.'

But to leave the term and go to the thing, we cannot but express our surprise, that this resolution of Kentucky in 1799, should be thought to hold out a warrant, for the new South Caro-

* Mr. Jefferson means acquiescence in the objections of the other States to the Kentucky resolutions of 1798.

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lina doctrine of a right to suspend or annul the action of a law of the General Government. The resolution is limited in terms to a protest, and concludes in that alone, and in the following words:

'That though this Commonwealth, as a party to the Federal compact, will bow to the laws of the Union, yet it does at the same time declare, that it will not now, nor ever hereafter, cease to oppose, *in a constitutional manner*, every attempt, from what quarter soever offered to violate that compact; and finally, in order that no pretexts or arguments may be drawn from a supposed acquiescence, on the part of this commonwealth in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the Federal compact, this Commonwealth does now enter against them its *solemn protest*.'

This South Carolina has done two years since against the tariff laws, (having dropped, from her protest, we know not why, the Colonization Society and Internal Improvements in the list of grievances;) and has thus exhausted the Kentucky precedent. After having thus gone over the ground of these famous resolutions, we again repeat, that they furnish no warrant for any course between the ordinary constitutional courses enumerated, and revolution or separation from the Union; and Mr. Jefferson agreed, on Mr. Madison's suggestion, to withdraw even a vague *reservation* of a future right to *do something*, because *separation* should only be resorted to as the remedy of extreme and often repeated cases of violation of the compact.

Before we quite leave this topic, we would observe, that, in the debate in the Virginia Assembly by which these resolutions were adopted, all idea of force, or of proceeding in an unconstitutional manner, was expressly disclaimed, and by no one more distinctly than by Mr. Taylor, of Caroline, the mover of the resolutions. Extracts from the debate showing this, may be found in Mr. Johnston's speech, page 16; they are here of necessity omitted.

We have already said, that we believe Kentucky and Virginia stood alone in 1798 and 1799, in the matter of these resolutions. It is a period to which our personal recollections do not extend, but we speak in the absence of all evidence that any other State co-operated with them. Mr. Mc Duffie, in his speech last winter, observed, that 'Pennsylvania adopted similar resolutions at a subsequent period,' remarking,

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at the same time, we believe, that this was a fact not generally known. If any thing else is alluded to, than the Pennsylvania resolutions in Olmstead's case, we are unacquainted with it. That case is now of general notoriety, and its bearings on this subject are so important, that it ought not to be omitted here.

Before quoting it, we would observe, that one great point in the present controversy, as in that of 1798 and 1799, is the constitutional competence of the Supreme Court of the United States to decide all questions of law or equity, arising under the Constitution and laws of the United States. It is contended, on the one hand, that the Supreme Court is the tribunal provided by the compact to settle the constitutionality of laws. On the other hand, it is maintained, that the province of the Supreme Court is confined to judicial questions, in the ordinary acceptation of that term, and does not apply to matters connected with the sovereignty of the States; and that if it did, *the General Government would be made the judge of its own powers.*

We propose presently to say a few words on this argument (in which we think a fallacy, fatal to the whole doctrine, is concealed); but we will observe here, that, though we admitted in its amplest form, all that the Virginia doctrine of 1798 and the South Carolina doctrine of 1828 contends for, relative to the Supreme Court, it would in no degree strengthen the nullifying doctrine. The Virginia resolutions deny, that the Supreme Court is the sole tribunal competent to decide questions, touching breaches of the compact, and claim that the States must decide for themselves. But what then? A State having decided that a law of Congress is unconstitutional, has a right, according to the Virginia resolutions, to protest against it, to demand of Congress to rescind it, to call on the sister States to concur in these measures, to endeavor to procure a convention, and amend the Constitution, and to instruct its United States' Senators to endeavor to procure an amendment. And if redress is not obtained, what then? Then on the Virginia doctrine comes *separation*, that is, revolution and civil war, if the other States please. This, we say, is the Virginia doctrine of 1798 and 1799. The South Carolina doctrine is, that the State legislatures are rightfully judges of the constitutionality of laws of the United States; and that when one State judges a law to be unconstitutional and nullifies it, its operation is suspended till Congress has procured a ratifica-

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tion of it, by an amendment of the Constitution; and that the Supreme Court of the United States is not competent to judge of questions involving State sovereignty.

We proceed now to Olmstead's case, a great and instructive one. This was a case running back historically to the year 1775. The history is too long to be here repeated;* it is sufficient to say, that in 1803, the legislature of Pennsylvania passed a special act, to protect certain persons against a judgment of the Circuit Court of Pennsylvania, in consequence of which and to avoid collision, the proceedings of that court were stayed. On the application of the parties interested, a *mandamus nisi* was issued to Judge Peters, by the Supreme Court of the United States, returnable at the next term. The cause shown by Judge Peters was the act of Pennsylvania, of 1803, directing the Governor to use such means as he might think necessary, for the protection of 'the just rights of the State,' and also to protect the persons and property of the said executrixes of David Rittenhouse, deceased, against any process whatever, issued out of any federal court, in consequence of their obedience to the requisition of said act.' After a masterly review of the case, the Chief Justice decreed a peremptory *mandamus*. This decision of the court was communicated by Governor Snyder to the legislature; and his message was referred to a committee of the Senate of Pennsylvania, which, after a historical deduction of the case, reported the following resolutions, which were adopted. An attempt was made by the Governor to enforce the State act, by calling out the militia, but it proved abortive, and the process of the Circuit Court took effect.

'Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, &c. that as a member of the Federal Union, the legislature of Pennsylvania acknowledges the supremacy, and will cheerfully submit to the authority of the General Government, as far as that authority is delegated by the Constitution of the United States. But whilst they yield to this authority, when exercised within constitutional limits, they trust they will not be considered as acting hostile to the General Government, when, as guardians of the State rights, they cannot

* It may be seen in the 'Whole Proceedings in the Case of Olmstead and others *vs.* Rittenhouse's Executrices, by R. Peters, Jun. Philadelphia, 1809,' and in 5 Cranch, 115.

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permit an infringement of those rights by an unconstitutional exercise of power in the United States courts.

'Resolved, that in a Government like that of the United States, where there are powers granted to the General Government, and rights reserved to the States, it is impossible, from the imperfection of language, so to define the limits of each, that difficulties should not sometimes arise, from the collision of powers; and it is to be lamented, that no provision is made in the Constitution, for determining disputes between the General and State Governments, by an impartial tribunal, when such cases occur.

'Resolved, that from the construction the United States courts give to their powers, the harmony of the States, if they resist encroachments on their rights, will frequently be interrupted; and if to prevent this evil, they should, on all occasions, yield to stretches of power, the reserved rights of the States will depend on the arbitrary power of the courts.

'Resolved, that should the independence of the States, as secured by the Constitution be destroyed, the liberties of the people, in so extensive a country, cannot long survive. To suffer the United States courts to decide on State rights, will from a bias in favor of power, necessarily destroy the federal part of our Government; and whenever the Government of the United States becomes consolidated, we may learn from the history of other nations what will be the event.

'To prevent the balance between the General and State Governments from being destroyed, and the harmony of the States from being interrupted,

'Resolved, that our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure an amendment to the Constitution of the United States, that an impartial tribunal may be established, to determine disputes between the General and State Governments; and that they be further instructed to use their endeavors, that in the meanwhile such arrangements may be made, between the Government of the Union and of this State as will put an end to existing difficulties.

'Resolved, that the Governor be requested to transmit a copy of these resolutions, together with the foregoing statement, to the Executive of the United States, to be laid before Congress, at their next session. And that he be authorised and directed to correspond with the President on the subject in controversy, and to agree to such arrangements, as it may be in the power of the Executive to make, or that Congress may make, either by the appointment of Commissioners or otherwise, for settling the difficulties between the two governments.

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'Resolved, that the Governor be also requested to transmit a copy to the Executives of the several States in the Union, with a request that they may be laid before their respective Legislatures.'

These resolutions were approved by Governor Snyder on the 3d of April, 1809, and sent in the usual manner, to the several States of the Union. We have before us, in the legislative journals of Pennsylvania, the responses of New Hampshire, Vermont, North Carolina, Virginia, Maryland, Georgia, Tennessee, Kentucky, New Jersey, all in opposition to the proposed amendment, and no one in favor of it. The doings of Virginia are too important to be omitted, and are as follows. We quote them from Note 3, to Mr. Webster's speech.

'The following resolutions of the Legislature of Virginia bear so pertinently and so strongly on this point of the debate, that they are thought worthy of being inserted in a note, especially as other resolutions of the same body are referred to in the discussion. It will be observed, that these resolutions were unanimously adopted in each House.

VIRGINIA LEGISLATURE.

'*Extract from the Message of Governor Tyler of Virginia, December* 4, 1809.

'"A proposition from the State of Pennsylvania is herewith submitted, with Governor Snyder's letter accompanying the same, in which is suggested the propriety of amending the Constitution of the United States, so as to prevent collision between the Government of the Union and the State Governments."

HOUSE OF DELEGATES.

Friday, December 15, 1809.

'On motion, ordered, that so much of the Governor's communication as relates to the communication from the Governor of Pennsylvania, on the subject of an amendment proposed by the Legislature of that State to the Constitution of the United States, be referred to Messrs. Peyton, Otey, Cabell, Walker, Madison, Holt, Newton, Parker, Stevenson, Randolph (of Amelia), Cocke, Wyatt and Ritchie.—*Journal*, p. 25.

Thursday, January 11, 1810.

'Mr. Peyton, from the committee to whom was referred that part of the Governor's communication, which relates to the amendment proposed by the State of Pennsylvania to the Constitution of the United States, made the following Report:

'The committee to whom was referred the communication of the Governor of Pennsylvania, covering certain resolutions of

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the Legislature of that State, proposing an amendment of the Constitution of the United States, by the appointment of an impartial tribunal to decide disputes between the States and the Federal Judiciary, have had the same under their consideration, and are of opinion that a tribunal is already provided by the Constitution of the United States, to wit, the Supreme Court, more eminently qualified from their habits and duties, from the mode of their selection, and from the tenure of their offices, to decide the disputes aforesaid in an enlightened and impartial manner, than any other tribunal which could be created.

'The members of the Supreme Court are selected from those in the United States, who are most celebrated for virtue and legal learning, not at the will of a single individual, but by the concurrent wishes of the President and Senate of the United States: they will therefore have no local prejudices and partialities. The duties they have to perform lead them necessarily to the most enlarged and accurate acquaintance with the jurisdiction of the Federal and State courts together, and with the admirable symmetry of our Government. The tenure of their offices enables them to pronounce the sound and correct opinions they may have formed, without fear, favor, or partiality.

'The amendment to the Constitution proposed by Pennsylvania seems to be founded upon the idea, that the Federal Judiciary will, from a lust of power, enlarge their jurisdiction to the total annihilation of the jurisdiction of the State courts; that they will exercise their will, instead of the law and the Constitution.

'This argument, if it proves any thing, would operate more strongly against the tribunal proposed to be created, which promised so little, than against the Supreme Court, which, for the reasons given before, have every thing connected with their appointment calculated to ensure confidence. What security have we, were the proposed amendment adopted, that this tribunal would not substitute their will and their pleasure, in place of the law? The Judiciary are the weakest of the three departments of Government, and least dangerous to the political rights of the Constitution; they hold neither the purse nor the sword; and even to enforce their own judgments and decisions must ultimately depend upon the executive arm. Should the Federal Judiciary, however, unmindful of their weakness, unmindful of the duty which they owe to themselves and their country, become corrupt, and transcend the limits of their jurisdiction, would the proposed amendment oppose even a probable barrier in such an improbable state of things?

'The creation of a tribunal, such as is proposed by Pennsyl-

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vania, so far as we are able to form an idea of it from the description given in the resolutions of the Legislature of that State, would, in the opinion of your Committee, tend rather to invite than to prevent collisions between the Federal and State courts. It might also become, in process of time, a serious and dangerous embarrassment to the operations of the General Government.

'Resolved, therefore, that the Legislature of this State do disapprove of the amendment to the Constitution of the United States, proposed by the Legislature of Pennsylvania.

'Resolved also, that his Excellency the Governor be and he is hereby requested to transmit forthwith, a copy of the foregoing preamble and resolutions, to each of the Senators and Representatives of this State in Congress, and to the Executives of the several States in the Union, with a request that the same be laid before the Legislatures thereof.

'The said resolutions being read a second time, were, on motion, ordered to be referred to a committee of the whole House on the state of the Commonwealth.

Tuesday, January 23, 1810.

'The House, according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Stanard (of Spottsylvania), reported, that the committee had, according to order, had under consideration the preamble and resolutions of the select committee to whom was referred that part of the Governor's communication, which relates to the amendment proposed to the Constitution of the United States, by the Legislature of Pennsylvania, had gone through with the same, and directed him to report them to the House without amendment; which he handed in at the Clerk's table.

'And the question being put on agreeing to the said preamble and resolutions, they were agreed to by the House unanimously.

'Ordered, that the Clerk carry the said preamble and resolutions to the Senate and desire their concurrence.

In Senate.

Wednesday, January 24, 1810.

'The preamble and resolutions on the amendment to the Constitution of the United States, proposed by the Legislature of Pennsylvania, by the appointment of an impartial tribunal to decide disputes between the State and Federal Judiciary, being also delivered in and twice read, on motion, was ordered to be committed to Messrs. Nelson, Currie, Campbell, Upshur and Wolfe.

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Friday, January 26.

'Mr. Nelson reported, from the committee to whom was committed the preamble and resolutions on the amendment proposed by the Legislature of Pennsylvania, &c. &c. that the committee had according to order, taken the said preamble, &c. under their consideration, and directed him to report them without any amendment.

'And on the question being put thereupon, the same was agreed to unanimously.'

Such was the fate of the Pennsylvania Resolutions. If this is the case, in which Pennsylvania is supposed to have affirmed the Kentucky and Virginia doctrines of 1798 and 1799, it must be admitted that these States, in 1809, made her but a cold return for her concurrence.

We have stated above, that a fallacy, fatal to the argument, is concealed in the proposition, that to allow the Supreme Court to be the exclusive judge of questions of constitutionality, between the General Government and the State Governments, would be to make the General Government, which is stated to be one party to the compact, the judge of its own powers. Mr. Webster, in his final brief rejoinder, pointed out the obvious defect in this reasoning, that, even admitting the theory that the Constitution is a compact, to which the States are parties, the General Government was not the other party, and consequently could not be spoken of as judging of its own powers; but was the form of government created by the various parties; and the question of course is, what is the tribunal provided by this compact, under the form of government established by it, to settle controversies? Supposing this to be the question, and waiving the inaccuracy of speaking of the General Government as one party, there appears to us an obvious fallacy in the argument. The answer to this question is, the Supreme Court of the United States is this tribunal, created by the people of the United States, or, if you please, by the States, to settle disputed points. The Supreme Court is not a tribunal created by the General Government; but with the other branches of the General Government, it is itself the creature (as we say) of the people, or (as South Carolina says) of the States. When therefore the Supreme Court decides a question, it is the people or the States (whichever you please), deciding a question, through the organs, which the people, or the States, have constituted. There is therefore

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not the shadow of truth in the proposition, that to make the Supreme Court a judge in controversies between a State and Congress is to make the General Government judge of the extent of its own powers.

The South Carolina doctrine, denying that the Supreme Court is the judge, in constitutional controversies, maintains that each State must judge for itself; and that it is the right of each State to suspend the action of any law, which it deems unconstitutional, till two thirds of the other States have confirmed it. It is said, to be sure, that it must be a case of violation of the Constitution, deliberate, palpable, and dangerous; but as the State is also the sole judge of these conditions, the qualification, as observed by Mr. Webster, comes to nothing.

It is claimed, too, expressly, that this is a constitutional right reserved to the States, and indeed necessarily belonging to an independent State, entering into a federal compact.

It is an obvious objection, then, first, to such a doctrine, that this great organic function, transcending all the constitutional powers of the Government, is not *named* in the Constitution. It would seem that so tremendous a power, clothing Delaware, Rhode Island, or Illinois, with a constitutional right to suspend the operation of a law, which has received the sanction of each House of Congress, of the Executive, and of the Supreme Court, *ought to be expressly named in the Constitution.* That Constitution, (to which South Carolina, either as a State or as a portion of the American people, is a party,) has formally provided, that 'this Constitution and the laws of the United States, which shall be made in pursuance thereof; and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges, in every State, shall be bound thereby, any thing in the Constitution or laws of any State to the contrary, notwithstanding.' Here, however, South Carolina says there is *implied* this proviso, '*Provided*, however, that whenever any State shall deem any law unconstitutional, the same shall be held and taken to be unconstitutional, null, void, and of no effect, until such time as three fourths of the States shall have amended the Constitution, in such manner, as that the aforesaid law shall be constitutional.'

This proviso, it is plain, is, in a few lines, a new form of Government, the incongruity of which, in the mere statement, is so manifest, that we fear we shall scarcely be deemed seri-

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ous in arguing upon it. But it is a doctrine which a great, enlightened, polished, patriotic State, is now convulsed to uphold.

We scarce know where to begin with the difficulties that surround it. It comes from politicians who think themselves the enemies of *implied* powers. Let any gentleman, who is disposed to favor this doctrine, put it into words to suit himself, and then point out, in the wildest visions of latitudinarian construction, an implied power, so remote from every granted or specified power, as that which would clothe every State with a standing right to suspend the operation of any and every law, till two thirds of the States had re-enacted it.

But it is said, this is a reserved right. Mr. Hayne, in his second speech, thus expresses himself:

'But I go farther, and contend, that the power in question may be fairly considered as reserved to the States by that clause of the Constitution, before referred to, which provides, "that all powers not delegated to the United States, are reserved to the States respectively, or the people." No doubt can exist, that before the States entered into the compact, they possessed the right, to the fullest extent, of determining the limits of their own powers,—it is incident to all sovereignty. Now have they given away that right, or agreed to limit or restrict it in any respect? Assuredly not. They have agreed that certain specific powers shall be exercised by the General Government; but the moment that Government steps beyond the limits of its charter, the right of the States "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them," is as full and complete as it was before the Constitution was formed. It was plenary then, and having never been surrendered, must be plenary now.'

And immediately on this assertion of the reserved right of the States, to judge for themselves of the infractions of the compact, follows Mr. Hayne's indication of the *modus operandi*, as already quoted.

We are not quite sure, that to speak of a reserved right to settle constitutional controversies, is not a contradiction in terms. The States undoubtedly possessed certain rights, before the Constitution was formed. Those rights, of course, had no reference to or connexion with the Constitution, which was not in existence. There could be no rights of the States, touching constitutional functions, and the order of enacting and repealing laws, till the Constitution was created.

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If it be meant that, under the Confederation, the individual States possessed this right, it is sufficient to say, *first*, that the confederation was abolished by the Constitution, and no part of it retained, except by express provision; and *second*, that, under the old confederation, no *similar* power belonged to an individual State. On the contrary, though the action of the Government of the Confederacy was on the States and not on the citizens, 'every State was bound to abide by the determinations of the United States in Congress assembled, on all questions submitted to them.'

If it be finally meant, by a reserved right, that it is a constitutional right of *every* sovereign State, (for we grant, merely for the sake of argument, that the Constitution is a compact, to which the States *alone* are parties, a theory repudiated by Virginia in 1798) that enters into a constitutional compact, to judge when the acts of the functionaries created by the compact are against its provisions, the unsoundness of the proposition is too evident to be argued. Every constitutional compact of Government made by reasonable men, should provide for a tribunal to settle controversies. If this be omitted, (and it is such a *casus omissus* as it would be to omit the reasoning faculty in constituting an intellect,) then, we admit, the parties reserve to themselves the right, severally, of quitting the confederacy in case of disagreement; but this is not a constitutional right; it is a natural right. This is the common law of partnerships. Putting the Union, if you please, merely on the loose footing of a partnership; supposing it to be the slightest connexion in which bodies of men could live or act together; no one ever heard that any single partner could suspend the action of all the rest, till two thirds had consented to a modification or explanation of the articles. The utmost he can claim, is a right to quit the firm. The utmost that South Carolina can claim, is a right to quit the Union. It is the reserved right of separation; and all attempts to point out a middle constitutional course, between this extreme and desperate right and that of ordinary constitutional means of procedure, are labor and ingenuity wasted. That a school of politicians, professedly hostile to *implied* powers, should imply a power like this, goes almost beyond the limits of conceivable self-contradiction.

Again, let us view it on the ground of *State rights*. This new doctrine purports to come from the State Right school,

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although we believe it would be rather difficult, genealogically to deduce its descent from that class of politicians. Be this as it may, it seems but a strange consequence of the doctrine of State rights, that one State has, at all times, a constitutional right to nullify the acts of the other twenty-three. It has lately been publicly proclaimed, by a respectable member of Congress of the South Carolina school, not merely with some air of exultation, but as an example to be imitated by South Carolina, that Georgia has nullified the treaties and the laws of Congress inconsistent with her supposed rights. His words are;

'By a law of the United States, the non-intercourse [intercourse] law, the President was authorised to prevent, by armed force, the intrusion of the whites upon the Indians. Yet, when Georgia became dissatisfied, and justly so, with the conduct of the Government, when she became assured that the Indian titles would never be extinguished, what was her remedy? She abrogated, she nullified the treaty; she reverted to her original sovereign right over her soil; and extended, in defiance of all treaties, of all laws, her own jurisdiction over all persons within her limits. And what was the result? Disunion? No! The tempest did rumble at a distance, but those fearless champions trembled not at its threatenings, and it passed away. Bloodshed? No! The crash of arms was heard—the tocsin of violence was sounded—but Georgia's patriots were ready at their posts; their feet were planted upon her boundary; and their firm and lofty defiance achieved at once what their petitions, remonstrance, and appeals, had for years attempted in vain. They triumphed! Here, then, is a precedent; here was nullification; nullification of a treaty of Congress—of a law of Congress—of the pretended law of the land. This is a precedent familiar to all. It is one on which we may confidently depend.'

Of these treaties several were ratified unanimously by the Senate of the United States; by the Senators from Georgia and South Carolina among the rest. The treaty with the Cherokees of 1817 was negotiated by General Jackson and the Governor of Tennessee, '*as commissioners plenipotentiary of the United States of America.*' It recited the purpose of the Cherokees, who remained east of the Mississippi, 'to begin the establishment of fixed laws and a regular government.' It assured to them 'the patronage and good neighborhood of the United States.' That treaty was unanimously ratified by the

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sovereign States of this Union, Mr. Troup, as a Senator from Georgia, voting, on behalf of that State, for the ratification. And yet Georgia, a single sovereign State, has, as has been correctly said by Mr. Barnwell, nullified this act of the other sovereign States. But Georgia, of course, possesses no rights in this matter not possessed by any other and every other State. In other words, it is the right of any State to nullify any treaty or law of the United States, whenever that State (herself being the judge,) shall deem her sovereignty to be invaded, or the Constitution violated, or her reserved rights impaired by the treaty or law. That such a theory of Government should ever be admitted by wise men is marvellous; but that it should be admitted as a State right doctrine is indeed one of the things, of which we are ready to exclaim, *Credo quia impossibile est.*

We profess to be firm and ardent friends of the rights of individual States, and of the rights of individual men. It is to preserve these rights, that Governments are established; and in Governments the will of the majority is taken to be the will of the whole, because the majority contains the greatest number of individuals. The majority—as such—is entitled to no natural preference. The Government is not made for them; it is made for the individuals; it is because the majority consists of the greatest number of minorities, so to say, that it ought to govern. If a vital measure is at stake, and one hundred and one are for it, and ninety-nine against it, it is indeed an unfortunate circumstance, that on vital measures, opinions and interests should be so much divided; and it is common enough to hear it said, that it is hard, that such measures should be carried by slender majorities. But it is surely hard, that they should be carried by no majority at all; that is, that they should be decided against the majority. It is hard that one hundred and one should carry a measure against ninety-nine; but it is surely harder that ninety-nine should carry it against one hundred and one. The rights therefore of the individual, in the long succession of years, and in the infinite variety and crossing of questions, are best secured by the maxim, that the majority shall govern. He can never then be injured or successfully opposed by less than one half; but give to any less number than a majority the right to decide questions, and each individual is liable to be successfully opposed; by a third, a quarter, or a single individual, as the case may be.

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So of States, acting as States in a confederacy. Nothing can be plainer than that all provisions, requiring any thing more than a majority, are so many encroachments on the rights of individual States. This is unquestionably a defect in the Federal Constitution. Two thirds of the Senators must concur to ratify a treaty. This is saying in effect, that the chances are nearly as two to one, that every treaty ought to be rejected. Is there any foundation, in political philosophy, for such a notion? A treaty is negotiated; there are forty-eight Senators; thirty-one are for it; seventeen against it; and it cannot be ratified. This is very favorable to the States represented by the seventeen; but how is it to the States represented by the thirty-one? This, however, is the Constitution; it is agreed to; and whether abstractly expedient, matters not now.

But then comes the nullifying doctrine and declares the right not of one third of the States to prevent two thirds from making a treaty, but of a single State to annul a treaty, which all the other States have made. And this is called State rights doctrine! It ought to be called the doctrine, whereby the greatest possible number of sovereign States may in the largest number of cases be prevented from exercising their rights, by the smallest assignable minority.

These are not cases of extreme hypothesis, they are conceivable, nay they are historical cases, cases that may happen, or cases that have happened. Georgia, Alabama, and Mississippi have nullified the intercourse law which is nearly coeval with the Government, and about fifty treaties. It is admitted; it is boasted of, and held up as a precedent to be depended on. Suppose Louisiana should hold with some very eminent politicians, that the Florida treaty gave away part of her territory. That treaty was unanimously ratified. May Louisiana nullify it, and extend her jurisdiction over Texas? Yes, says the nullifying school, and cheers her on to do it. But this is war against Mexico; and when Louisiana is at war with Mexico, what are the United States doing? Are they at peace or at war? If at war, are they at war with Mexico, and with Mexico's ally, Great Britain; whose Minister has lately told us, we shall not buy Texas, far less, we suppose, 'extend our jurisdiction over it,' without buying it?—Are we at a war, too, declared by one State? That is against the letter of the Constitution.

Another case. The last convention with Great Britain submits to arbitration a part of the State of Maine. This conven-

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tion was, also, we believe, unanimously ratified by the Senate. Suppose the umpire, the King of the Netherlands, should decide that the disputed territory (being nearly as large as Massachusetts,) does not belong to Maine and Massachusetts, but belongs to New Brunswick. Maine and Massachusetts following the Georgia precedent, and borne out by the Carolina doctrine, decree a nullification of the treaty. What says Great Britain to this? First, she would tell you, that Maine and Massachusetts are no parties to the treaty, and that she looks to you, the United States, to see that it is observed in good faith. Next, she would say, if you do not give us the land in fulfilment of the treaty, we will take it ourselves. The good people of Maine and Massachusetts would bid them 'come and try,' and there again we have war foreign or civil. If the United States support Maine in breaking their own treaty, it is foreign war; if the United States fulfil their treaty, it is civil war with Maine.

But to return to the nullifying of laws, leaving treaties aside. We greatly fear that our brethren in South Carolina have contemplated the doctrine, too much in its application to laws, which are disliked by themselves, and that they have not viewed the matter, in its *principle*. A State, they say, may suspend the operation of an act of Congress, which it deems unconstitutional, till two thirds of the States sanction it by an amendment. At the last session of Congress, a law was passed, providing half a million of dollars to remove the Indians. We believe the voice not of one State, but of half the States of the Union could be obtained, to declare that law unconstitutional, under the circumstances of the case, and deeply injurious to each State, as a violation of the honor of each State pledged by treaty, to these Indians. Now the South Carolina doctrine is, that Massachusetts or Ohio has a right to suspend the operation of this law till two thirds of the States have confirmed it. Would two thirds ever confirm it? Assuredly not. Here then we have Georgia nullifying the treaties with the Indians, and Ohio nullifying the appropriation acts passed to carry into effect the nullification of the treaties.

Massachusetts and several other States, in 1807 and 1808, held the embargo to be unconstitutional, and Mr. Hayne observes, in his second speech, 'that it was right to yield it to honest convictions of its unconstitutionality, entertained by so large a portion of our fellow-citizens.' But this is not quite enough, much

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as we honor Mr. Hayne's liberality on this point. Massachusetts deemed it unconstitutional. Could she have instantly suspended it, till Congress had obtained an amendment to confirm it? She did propose to the other States an amendment of the Constitution, providing 'that no law should be enacted, laying an embargo, or prohibiting or suspending commerce, for a longer period than until the expiration of thirty days from the commencement of the session of Congress, next succeeding that session, in which such law should have been enacted.' Nobody joined her in the amendment, out of New England; and Mr. Hayne devotes a whole paragraph in his speech, to show that the *onus* of procuring the amendment ought to lie *not* with the single discontented State, but with the rest of the Union. Massachusetts had then a right to suspend the embargo law according to the South Carolina doctrine, and compel the other States, if they chose to have it, to procure an amendment of the Constitution. This process would, at the least calculation, have lasted a year. What would have become of the embargo meantime? What was said even of those, who advocated its repeal in the ordinary course of legislation? The bare exercise of his rights as a citizen and a member of Congress, to procure this repeal, in conformity with the instructions of his constituents, and the wishes of all New-England, procured from Mr. Jefferson for Judge Story, then a member of Congress, the epithet of *pseudo-republican*.

But we go a step farther. How does the nullifying power bear on the question of a declaration of war. The war measures of 1798 were deemed by the republican party unconstitutional. The Alien Law, which was brought forward by its friends as a war measure, was one of the two laws, which led to the resolutions of Virginia and Kentucky, and was denounced as unconstitutional. The declaration of war, in 1812, was regarded, by the federal party, as unconstitutional, in like manner as the tariff is now held by Carolina to be unconstitutional; that is to say, a law within the forms of the Constitution, but passed for unconstitutional objects. These we need not enumerate; and it is in no degree necessary to inquire into the justice of these opinions. That they existed, we suppose, will not be denied. If then Massachusetts, that is, the dominant party in Massachusetts, believed that the war was declared from attachment to France, antipathy to England, hostility to commerce, or an opinion that 'we should keep our New England

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brethren to quarrel with,' all of which was believed by the majority of New England at that day, and which all will allow are motives unknown to the Constitution, then Massachusetts had a right, by the South Carolina doctrine, to nullify the declaration of war, until two thirds of the States had confirmed it.

Again, the vocabulary of reprehension has been exhausted on Massachusetts, for withholding her militia from the General Government, although called out in a manner now *acknowledged* to have been contrary to the Constitution of the United States and of Massachusetts. There is not in the United States of America a man, who will hazard a reputation as a statesman, by saying, that the mode, in which the Massachusetts militia were called out was constitutional: we mean separating the officers from their companies, regiments and brigades. Massachusetts did undertake to nullify the law creating that draft. And what has been the consequence? The annihilation of the political party that recommended that measure; reproach and outrage from their opponents throughout the Union; and the privation of her treasury, for nearly twenty years, of a half a million of dollars, patriotically and faithfully advanced for the public service.

Congress establishes a bank: the President of the United States thinks its constitutionality well questioned, and Tennessee no doubt agrees with him, and does not stand alone. Any State may nullify the charter, till two thirds of the States confirm it. What would the Chairman of the Committee of Ways and Means say to this? Would he quote the Kentucky Resolutions again, to prove that 'a nullification of all unauthorized acts done under color of that instrument is the rightful remedy.'

It is plain farther, that the nullifying power already maintained to extend to treaties and laws, may apply to every other function of the government; to executive and to judicial acts. The President has power to fill vacancies, which occur in the recess of the Senate. He may consider vacancies occurring by removal as within the purview of the Constitution. He may remove collectors of the customs in the recess, and appoint others, to reward his friends. The people of a State may deem such a course unconstitutional. By the South Carolina doctrine, a State, so deeming, may nullify the commissions of officers thus appointed; and what then becomes of the customs?

Kentucky was much aggrieved at the decision of the United

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States' court, in the case of the occupying claimant laws. She deemed that decision unconstitutional in itself, oppressive and derogatory to Kentucky. Kentucky could, by the South Carolina doctrine, have nullified that decision; and beyond question, it struck far deeper into her vitals, than all the alien and sedition laws, that could have been enacted to the end of time. The Alien and Sedition Laws were empty Salmonean thunder; the flash of smoky torches, and the trampling of steeds on a brazen floor. They did not blast a spire of blue grass in the beautiful woodlands of Kentucky. They were, to say the least, as inefficient as they were ill-judged. The alarm, which they excited, was that of oppression snuffed at a distance, on the tainted gale. Not so the opinion of the Supreme Court of the United States, in the case of Green and Biddle;

——non ille faces nec fumea tædis
Lumina.

If the Alien and Sedition Laws were as inefficient as they were unconstitutional; this opinion was as effective as it was righteous; it was the *non imitabile fulmen*, real three-bolted thunder. It struck at the legislature, the courts, the titles of Kentucky; repealed her laws, reversed the decisions of her judges, and drove hundreds of her citizens, without a dollar of indemnity, from the homes, which they had painfully built up in the wilderness. Could Kentucky have nullified that decision, the little finger of which was heavier upon her than the loins of the Alien and Sedition Laws? Would Virginia have looked on and seen her nullify them? Virginia, who thought that she and justice gained a great triumph on this occasion? Virginia, whose legislation, whose judiciary, whose grants were sustained, in proportion as those of Kentucky were impugned?

There is a crying evil in this country, on the subject of the relations of debtor and creditor. The ancient Gothic jurisprudence of Great Britain, of which all too much afflicts this generation and this country, regarded and punished misfortune as a crime. Our laws so regard it; and inability to pay his debts, whether produced by vice, general inefficiency, accident, or the hand of God, is held in this Christian community to be equally a crime, for which the culprit is subject to be immured in a jail; and that at the discretion or caprice of the creditor, who is authorized to reduce his victim to this penal bondage to the end of his life: seizing successively the earn-

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ings of each day, in discharge of an undischargable obligation. By this system of antiquated cruelty and injustice, called law, great individual misery is wrought in the land, much malignant passion nourished, swarms of the subaltern ministers of justice pampered, and a large and growing class of what might be industrious and valuable citizens, condemned to heart-breaking inaction, and lost to themselves and the country. Wise and philanthropic statesmen have labored, at various times, to provide a partial remedy for this stupendous evil, by an act of Congress; and among them, none has labored more meritoriously than Mr. Hayne. In the first session of the nineteenth Congress, Mr. Hayne reported a bankrupt law in the Senate of the United States, and sustained it with equal ability and zeal. Better speaking on such a subject we never wish to hear; much better we never did hear from any body, than we then heard from Mr. Hayne. He did not succeed, however, in overcoming the honest doubts of his colleagues; and though he merited, he did not meet with success. But suppose it had been his honor and good fortune to carry the bill through the Senate, and it had become a law: while he was resting from his strenuous efforts, with the ingenuous flush of richly deserved and modestly enjoyed triumph on his cheek; while the benedictions of those whose prison-doors he had thrown open were just reaching his ears, and arms long encumbered with vile fetters, but now renerved by him with honest industry, were raised to heaven for a blessing upon him, as they would have been from Louisiana to Maine; suppose that, at this moment, Vermont had sent him an act declaring the bankrupt law unconstitutional, as many hold it to be, and suspending his code of mercy and justice, till two thirds of the States had confirmed it. What would he have said to the nullifying doctrine and the nullifying act?

We trust we do not overstate the principles which we would enforce. The time has been, and that not ten years since, when every word we have uttered would have been echoed from South Carolina, with an emphasis far beyond its original force. In 1821, a series of essays appeared in a Georgia paper, under the signature of 'The Trio,' the ostensible object of which was to show, that the administration of Mr. Monroe (then just re-elected) was conducted on principles altogether subversive of the republicanism of 1801. We have never seen these essays, but their character is thus indicated, in the preface to a pamphlet, which we shall presently quote:

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'The basis, however, of the argument in which The Trio indulge, is in contending "for a strict and literal construction of the Constitution," and in affirming an absolute negation of every thing wearing the aspect of an "implied power." This construction, as their own reasoning proves, would limit the sphere of our National Charter to those suicidal efforts, which in the end will have produced its dissolution, as a matter of inevitable consequence. To these views, the "Triumvirate" added the tocsin of "State sovereignty," a note which has been sounded in "the ancient dominion," with such an ill-omened blast, but with no variety by them, to relieve its dull and vexatious dissonance.'

'It is against these doctrines, to support which the authority of the highest names has been brought forward, the most criminal examples cited, the most popular prejudices addressed, that "One of the People" has taken the field.'

The foregoing passage is from the preface to the pamphlet in which the essays of 'One of the People' are collected, under the title of 'National and State Rights Considered.' These essays have been universally and publicly ascribed to Mr. Mc Duffie.* We should think our pages well filled, by quoting the pamphlet entire, did not the length to which our article has run forbid us from doing so. We shall confine ourselves to one or two extracts:

'You assert, that when any conflict shall occur between the General and State Governments, as to the extent of their respective powers, "*each party has a right to judge for itself.*" I confess I am at a loss to know, how such a proposition ought to be treated. *No climax of political heresies can be imagined, in which this might not fairly claim the most prominent place.* It resolves the Government at once into the elements of physical force, and introduces us directly into a scene of anarchy and blood. There is not a single power delegated to the General Government, which it would not be in the power of every State Government to destroy, under the authority of this licentious principle. It will be only necessary for a State Legislature to pass a law, forbidding that which the Federal Legislature enjoins, or enjoining what the Federal Legislature forbids, and the work is accomplished. Perhaps you would require the State Judiciary to pronounce the State law constitutional. I will illustrate by a few examples:

'Suppose Congress should pass a law "to lay and collect taxes, imposts and excises," and that a State Legislature should

* See Mr. Grimké's Speech, before quoted, page 99, and elsewhere.

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pass another, declaring the *objects* for which the revenue was intended were *unconstitutional*, and therefore prohibiting the officers of the General Government, by severe penalties, from collecting the taxes, duties, imposts and excises. Suppose Congress should pass a law "to raise an army" for a national war, and a State Legislature pass another, declaring the war "wicked, unrighteous and unconstitutional," and therefore prohibiting the officers of the General Government, under heavy penalties, from recruiting soldiers, within the limits of the State. Suppose Congress should pass a law "for the punishment of counterfeiting the securities and current coin of the United States," and a State Government should pronounce it unconstitutional, and provide heavy penalties against all officers, judicial or ministerial, who should attempt to enforce it. I need not multiply cases; for if you will duly consider these, you will find enough to satiate your keenest relish for anarchy and disorder. In all the above cases, you would say "each party has a right to judge for itself," and of course to enforce its judgment. You might then behold a revenue officer of the United States confined in a State dungeon, for obeying the revenue laws of Congress, &c. And all this would unavoidably result, in giving the State rulers a right to resist the General Government, or in a civil war to establish its legitimate authority; consequences, either of which is incompatible with the very notion of government. To suppose that the General Government has a constitutional right to exercise certain powers, which must operate upon the people of the States, and yet that the Government of each State has the right to fix and determine its own relative powers, and by necessary consequence to limit the powers of the General Government, is to suppose the existence of two contradictory and inconsistent rights. In all governments, there must be some *one* supreme power; in other words, every question that can arise, as to the constitutional extent of the powers of different classes of functionaries, must be susceptible of a legal and peaceable determination, by some tribunal of acknowledged authority, or force must be the inevitable consequence. And where force begins, government ends.

'And it is the more astonishing, that you have assumed positions, involving such tremendous consequences, when we consider that they are in direct opposition to the "strict letter" of the Constitution, your favorite test of the extent of delegated powers. It is therein provided "that the Constitution and the laws of the United States, which shall be made in pursuance thereof," "shall be the supreme law of the land, and the *judges in every State* shall be bound thereby, *any thing in the Constitution or laws of any State to the contrary notwithstanding.*" And

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again, "the judicial power [of the United States] shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." Nothing can be more plain than that the "strict letter" of the Constitution does make *the laws* of Congress *supreme*, enjoining obedience upon the State functionaries, and making void the laws of a State if contrary thereto. And to give the provision a sanction of a nature peculiarly impressive, "the members of the several State Legislatures, and all executive and judicial officers both of the United States and of the several States shall be bound by oath or affirmation to support the Constitution of the United States.

'It is not less evident, that it belongs to the National Judiciary, to pronounce upon the constitutionality or unconstitutionality of the laws of the National Legislature. Its jurisdiction extends to all cases rising under them; and it is hard to conceive how in any possible case a Federal judge can decide a case, arising under a law, without pronouncing upon the constitutionality of that law. In fact it would be vain and idle to make the laws of Congress supreme, if the National Judiciary had not the power of enforcing them. For you can hardly be ignorant, that a law is a dead letter, without an organ to expound, and an instrument to enforce it. I should suppose, therefore, that no professional man could hesitate in saying, that a forcible opposition to the judgment of the Federal court, founded upon an act of Congress, *by whatever State authority that opposition might be authorized*, would be the very case, which the Convention had in view, when they made provision, for "calling forth the militia to execute the laws of the Union." But I sincerely hope, that your licentious doctrines will never have the effect of misleading the State authorities so far, as to render this terrible resort unavoidable. I trust the farewell address of Washington, admonishing his fellow citizens to "frown indignantly" upon those who preach up doctrines tending to disunion, is not yet forgotten.' pp. 16—18.

Replying to the charge of federalism, made by his State right opponents to the administration of Mr. Monroe, Mr. Mc Duffie says,

'Presuming upon the ignorance of the people, you have vainly imagined, they could be carried away, by the "magic of a name." Hence your continual straining, your ridiculous twisting, to associate with every measure of Mr. Monroe's administration the term *federal;* a term which you suppose will awaken so many odious associations, as to make the people forget, that, as a party word, so far from applying to Mr. Monroe's adminis-

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tration, it properly belongs to its opponents. And as among these, you may claim a distinguished situation, having preached pretty much the same doctrines in *peace*, which former opponents advocated in *war*, you could scarcely have deserved more credit, had a defence of the famous Hartford Convention and an accomplishment of their views, *so similar to your own*, been the avowed object of your labors.'

We have have referred to this able pamphlet, because we deem the principles, which it contains, almost without exception, sound; because they bear directly on the movements now making in Carolina; and because they come from a statesman respected throughout the country, but surely entitled to respect in the highest degree in South Carolina. This gentleman did not then stand alone in South Carolina; he was one of a party, comprehending nearly all the ablest men in that State. An extract from a Carolina newspaper, for the month of September, 1821, lies before us, from which we make the following quotation. After reprobating the conduct of Ohio, in the case of the bank of the United States, the editor of the paper proceeds,

'It is under the influence of such considerations as these, that we thought the example of South Carolina in the *unanimous* support given by her Legislature, during the last session, to the principles expressed in the following Report, might possibly produce some good at a crisis that appears to us so full of difficulties as the present.'

Then follows the *Report* of

'The committee to whom were referred the preamble and resolutions directing our Senators and requesting our Representatives in Congress, to oppose the proposed alteration in the tariff, submitted by the honorable member from Chesterfield.'

This Report, after setting forth the general concurrence of the Southern and Eastern States in the impolicy and inexpediency of the manufacturing system, proceeds as follows;

'Yet when they [the committee] reflect, that the necessity, at that time universally felt, of regulating the commerce of the country by more enlarged and uniform principles, was the first motive that induced the calling of a Convention in 1787; when they consider, that, among the powers *expressly* given up by the States, and vested in Congress, by the Constitution, is this very one of enacting all laws relating to commerce; *above all*, when they advert to the consequences, likely to result from the prac-

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tice, unfortunately becoming too common, of arraying, on questions of national policy, the States, as distinct and independent sovereignties, in opposition to, or what is much the same thing, with a view to exercise a control over the General Government, your committee feel it their indispensable duty to protest against a measure, of which they conceive the tendency to be so mischievous, and to recommend to the House, that on this, as on every other occasion, where the common interests of the Republic are in question, they adhere to those wise, liberal and magnanimous principles by which this State has been hitherto so proudly distinguished.'

We infer from this document, taken in connexion with the manner in which it is quoted in the South Carolina paper, that in 1820–1821, on occasion of a proposed increase of the duties on imports, a member of the House of Representatives, in South Carolina, moved resolutions, instructing the Senators and requesting the Representatives of South Carolina in Congress to oppose the said increase; that these resolutions were committed to a select committee, and, on their Report *unanimously rejected*, on the following grounds;

1. That the tariff was a part of that enlarged and uniform system of regulating the commerce of the country, which led to the calling of the Convention, which framed the Constitution in 1787;

2. That the power of enacting all laws relating to commerce was *expressly* given up by the States and vested in Congress;

3. Thirdly, and *above all*, that the consequences of the practice, which had become too common, of arraying the States, as distinct and independent sovereignties, in opposition to, or in order to control the General Government on questions of national policy, was mischievous;

4. That on occasions, when the common interests of the republic are concerned, South Carolina should continue to pursue the wise, liberal, and magnanimous principles, by which that State has hitherto been distinguished.

These principles, we conceive, cover the whole ground of the present controversy. We quote them, because, what has been the opinion of South Carolina once, may be her opinion again, and not with any purpose of insinuating a charge of inconsistency against individuals or bodies of men. It must happen to every man, not possessing the somewhat rare endowment of infallibility, to have occasion, on great and difficult points, to revise his

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first impressions; and in the complicated relations of national politics, the man who boasts, that he has never changed an opinion, boasts only that he has never acknowledged nor corrected an error. In 1821, it would have been impossible, in the Legislature of Massachusetts, to obtain an unanimous vote, in concurrence with a report like that, which we have just quoted, as having been unanimously adopted in South Carolina. Since that period, many, who, in this part of the country, opposed the tariff policy have, from the altered state of circumstances, been led to support it. In doing this, they have done only what it was foreseen and foretold, at the time, must be done by Northern men, and they have the sanction of the highest South Carolina authority. We will but cite the following.—On the 28th of November, 1820, a memorial was presented to the House of Representatives of the United States, from 'sundry inhabitants of the upper counties of the State of South Carolina,' the concluding paragraph of which is expressed in the following words:

'We will close this remonstrance, with one more view of this important subject, showing the extreme caution and deliberation, with which Congress ought to act. A false step taken, in this system of *protection can never be retraced.** This will appear from an obvious application of an established maxim of political economy. However high you may raise the duties upon foreign articles, the effect of competition will be to reduce the profits of the manufacturer, to the level of the profits of other kinds of industry. When a large manufacturing interest, therefore, shall have grown up under the faith of high protection, and can but barely sustain itself with the aid of the protection, it would be absolute ruin of that great interest, to withdraw a protecting duty of some fifty per cent, and suddenly reduce, in a corresponding degree, the value of the whole mass of invested manufacturing capital. The government that would hazard such a measure ought to have a military force to suppress insurrection.'

Such were the opinions of the citizens of the upper counties of South Carolina, on this subject, at the close of 1820. Those of Charleston expressed themselves, at the same time, in the following manner, in a memorial, signed by 'Stephen Elliott, chairman of the citizens of Charleston,' a gentleman, in whose recent decease not South Carolina alone, but the whole country has lost one of its most distinguished and respectable sons.

* These words are italicised in the original.

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'It is at the threshold we must yet pause. The steps we now take, we may not be able to retrace. *The pledges we now give to our citizens we may not be able to recal.* When thousands, perhaps millions of dollars shall have been invested in manufactures, with the assurance of public support and protection, *we know not how with justice this system could be abandoned,* and the property vested, under such assurance, be devoted to irretrievable destruction. Even if the evils attendant upon these efforts should prove, in every respect, pernicious, and should press sorely on every other branch of national industry, we must go on.'

It deserves carefully to be noticed that at the very time these views of the subject were taken in the memorials presented to Congress, the House of Representatives of South Carolina, unanimously refused to adopt resolutions instructing their Representatives, to oppose the increase of duties contemplated at that time.

We beg to have this subject impartially and coolly weighed, in connexion with the present discontents. We will not now urge, that the foundation of the present manufacturing system was laid, in the war of 1812, and the measures which preceded it; a war in respect to which, it is the boast of South Carolina, that three of her distinguished citizens were mainly instrumental, in causing it to be declared. On the return of peace, the law of 1816 was passed, and of this law it is said by Mr. Hayne in his very able speech of 1824, that it 'may be considered as the commencement of the "anti-commercial system."' That law, as is well known, was supported by the leading South Carolina members. The citizens of the upper counties of South Carolina in their memorial of November, 1820, (page 7,) remark, that 'the Representatives of South Carolina in Congress, have invariably risen above sectional views, and regarded alone the general interests of the nation. One of those Representatives, in particular, the present Secretary of War, (Mr. Calhoun,) and we believe another, (Mr. Lowndes,) were decided advocates of the *tariff* formed soon after the war, which gave to the manufacturers a *liberal* protection.' From 1816, nothing of consequence was done till the enactment of the law of 1824, and though this law is always enumerated among the burdens of the South, it was so modified, on its passage through the two Houses of Congress, that Mr. Hayne was led to observe in a note to the speech, which we

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have just quoted, that it 'received no less than thirty-seven amendments in the Senate, nearly all of which tended to render its operation less oppressive, and to deprive it of its prohibitory character.' For the obnoxious features of the tariff of 1828, the manufacturers are really not to blame. They sought, in the first instance, merely a remedy for that change of things, which had arisen, in consequence of British legislation, in the woollen manufacture; and wished only not to have that branch deprived by a foreign government, of the protection guarantied to it by our own. The bill for effecting this object failed in 1827. The law of 1828 was a law, for which the manufacturing interest was not responsible. It consisted of two classes of measures, one those, which purported to regard the interest of the farmers, the other those, which were inserted, by a combination of the Southern and grain-growing States, with the avowed purpose on the part of the former of rendering the bill unpalatable to the purely manufacturing and commercial part of the Union. The bill of the last session is one, which as it passed, contained no feature of itself objectionable to any part of the community; and contemporaneously with its passage, some of the obnoxious provisions of the tariff law,—the duties on salt and molasses,—were reduced.

Where then the occasion of this unmeasured excitement? The only evil alleged to exist in South Carolina, is, that cotton has fallen in price. The cause, to which this effect is ascribed, is the tariff. Suppose the tariff repealed, and that the demand for cotton would be increased to the extent of paying for all the fabrics which would be imported, instead of those now manufactured. We say, suppose this, though it would not follow for three reasons. First, the cottons of India would be manufactured from the growth of that country; second, all that industry which is now rendered productive exclusively by the tariff, would be annihilated, and could not import any thing, to be paid for by cotton, or any thing else; and third, the demand for cotton abroad does not depend on our demand for foreign manufactures, but on the general demand for cotton fabrics, which would not be proportionably increased by our ceasing to manufacture. But waiving all this, and supposing that America would export, say one fifth more of cotton annually. The effect of this increased demand is to be diffused over Virginia, North Carolina, South Carolina, Georgia, Tennessee, Alabama, Mississippi, Louisiana, and the Territory of

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Arkansas. South Carolina would, in her proportion, feel the effect of this demand, and produce her share of the additional supply. But the price of her cotton would not be raised a mill per pound, for the obvious reason, that there is a great abundance of good cotton land in the nine States enumerated, not yet taken up.

Will South Carolina then dissolve the Union, for the sake of exporting a few thousand bags more of cotton, at the present price? We do not believe it. And could she, in the councils of her leading men, or in her popular assemblies, be induced to contemplate the consequences of carrying out the principles she now proclaims, we are well convinced she would be the first to repudiate them. She has been lavish in her condemnation of the doctrines advanced in this part of the country, in the war of 1812, doctrines declared by one of her own leading statesmen in 1821, to be similar to those then advanced by the State right politicians of that day. No one, surely, will undertake to draw a distinction between the doctrines of Virginia and Georgia in 1821, and those of South Carolina in 1828, to the advantage of the latter. We do not know that in 1821 the integrity of the Union was threatened in a whisper. In 1828, '*Disunion*' is proposed as our salvation, at a great public celebration, sanctioned by Representatives and Senators, and the consequences of a separation from the rest of the United States, and the erection of Charleston into a free port, are calmly set forth on the floor of Congress. This is done by politicians, who entertain and express the sternest disapprobation of the Hartford Convention and its doings.

We know it is said, that the Hartford Convention was called in time of war; that the movements of South Carolina are in profound peace. A separation of the Union, and civil war, in a time of peace! Yes, truly, as all signs of rain fail in a season of drought. The sign has failed, but the thing signified comes; and while the sky presents the aspect of a broad overarching mirror, and the breeze is as dry as the dust which is driven before it, the face of the heavens in a moment is changed; the mighty host of waters comes down from the opening clouds; the swelling streams burst from their channels; and the fruits of the earth and the labors of man are swept onward in undistinguished ruin. Nor does the lesson of the philosophic poet stop here.* In this midnight of storms,

* Virgil, Georgic. III.

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and wreck of nature, the incensed divinity is abroad. He seizes his thunder in his red right hand, and strikes dread into the hearts of men, throughout the nations.

God preserve us from the day, when, to punish this nation for all its ill desert, though it were ten times greater than our worst enemy has painted it, any member of the common family, in war or in peace, shall separate from the Union. It has been said, that if this Union were consolidated into one Government, it would be the most corrupt Government ever known. Perhaps. If it be broken into separate independencies, it will present a scene of embittered and merciless civil wars, beyond those of republican Greece, or Italy in the middle ages. For ourselves, though every factory in the North were one great machine for transmuting iron into gold, we would rather see them all levelled to the earth, than that one State should be separated from the Union. We know, that to every part of the country this would be all, and more than all, that is wrapped up in that inauspicious phrase, 'the beginning of evils.' It would be evil in the beginning and from the beginning; and it would be misery, cruelty, and havoc, in the continuance; and utter ruin in the end. It would be on the grandest scale and in the extremest exasperation, a comprehensive family quarrel, in which a thousand natural bonds of union would be so many causes of unappeasable and remorseless hatred and hostility. There would be an agonizing struggle of domestic parties, on each side respectively, with the attendant train of rapine, assassination, judicial cruelty, and military execution. There would be an incessant border war; and from time to time a vast array of warlike forces and hostile inroads, with their wasting, demoralizing, and all-destroying consequences. Close in the train would follow foreign alliance and foreign war, in the very nature of their cause, of indefinite duration. To suppose that Republican Government could be kept up in such a condition of things, in any part of the country, would be deafness to the teachings of common reason and history. The act, by which one State severs itself from this Union, entails a military despotism on that State, and probably on every other.

The auspicious consequences to South Carolina of separating herself from the Union, and establishing her independence, have been depicted, even on the floor of Congress; a free trade with all the world, and a revenue of eight millions of dol-

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lars, applied to all the objects of public improvement. But, laying aside the entire effect of the passions that would be enkindled, will the rest of the Union acquiesce in this state of things? Will the other States permit any one to make itself foreign to them? There is no provision in the Constitution that authorizes it; the evils that would flow from it to the remaining States are so enormous, that, on the ground of self-preservation, they could not permit it. Would it be permitted to Tennessee to separate from the Union, and thus throw a foreign sovereignty between the South-western States and the Capital? Or could Ohio declare herself independent, and leave Indiana and Illinois insulated on the British frontier? Surely not. On the day that the intelligence should be received, that South Carolina had obstructed the execution of a law of the United States, the President, if he did his duty, would call out the militia of North Carolina, of Tennessee, and of Georgia, to enforce it, (as General Washington called out the militia of New Jersey, Pennsylvania, Virginia, and Maryland, in 1794;) nay, he would call out the militia of South Carolina herself, for one of the three cases, which the Constitution provides; and the example of Massachusetts has well taught the States of this Union to beware of withholding their militia, when called out under an act of Congress, or of undertaking to judge for themselves whether the exigency exists. Then the port of Charleston, if declared free by South Carolina, would be put in a state of blockade by Congress. The Columbus, and the Independence, and the Franklin, and the Brandywine, and the Lexington, would one by one take their stations on the edge of the bar; and last of all, the poor old Constitution herself, almost coeval with her afflicted namesake, would obey the unwelcome summons. She would come, not skimming over the waves like the sea-bird that scarce wets his bosom on their snowy crests; not ringing with glad shouts, and the rapture of anticipated triumph, as when she ranged like a mighty monster of the deep, beneath the castles of Tripoli, striking them dumb as she passed; or as when she spread her broad and glorious banner to the winds, and rushed, like a strong man rejoicing to run a race, on the Guerriere and the Java. Her dark and weather-beaten sides would loom slowly and mournfully from the deep. Who will not weep, that shall see her sadly displaying her beautiful banner, with one bright star veiled forever, with one dear stripe effaced,—one of the old thirteen, that was

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emblazoned upon the broad folds, when they were first unrolled on the morning of Independence; and was not obliterated, when they were trailed along, torn and daggled with blood, in the days of the country's tribulation; but now, alas, voluntarily blotted from them by South Carolina herself? Who could support the sight, when a squadron of the United States of America should obey the stern command of duty, and rush down in dark and fatal array on the old palmetto fort! But a worse sight than this must be borne. By the necessity of the political system in which we live; a necessity stronger than men and stronger than parties; whatsoever State shall drop from this Union, will fall into the arms of England. We know that this would be a bitter necessity to a patriotic State, but it would be her inevitable doom. Scarcely will the squadron of the United States have appeared off the waters of Charleston, to engage reluctantly in a civil war with their brethren, when a British fleet will hasten to relieve the free port; and the Royal George, and the Sovereign, and the Majestic, and the Leopard, and the Shannon, will be again arrayed against the United States, in alliance with South Carolina. Into what condition will this plunge the United States, or the disunited State? We freely admit, that it would plunge the United States into an abyss of suffering. On South Carolina itself, it would bring a direr scourge than foreign or civil war, a *bellum plusquam civile*, in which, in the most terrific sense, a man's *foes shall be those of his own household.*

This is not the language of one who looks with indifference at the burdens, real or imaginary, of any part of the Union. It is not the language of taunt or derision. It is the language of one who respects the character, acknowledges the rights, and desires the prosperity of South Carolina, as sincerely as any one of her citizens. It is a language in which one of the most distinguished of those citizens has lately himself, in substance, addressed her. At the festival held at Charleston, on the third of July, Col. Drayton, the Representative of that city in Congress, in a speech which will do him credit, as long as the Union, or the memory of the Union, shall last, thus expressed himself on this great question:

'Should the efforts which I have suggested fail of success—should the law we complain of remain unrepealed upon our statute book—we should then inquire, whether a recurrence to the remedy which I have adverted to, would not be worse than the

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malady it professes to cure—whether its certain consequence would not be disunion—whether disunion would not be fraught with more disastrous results than the provisions of the act—whether it would not create a division in our own State, producing the direst of national calamities—civil war. After pondering dispassionately and profoundly, upon these questions, we are bound by every social and moral duty to select the least of the evils presented to us. For my own part, I feel no hesitation in avowing that I should regard the separation of South Carolina from the Union, as incalculably more to be deplored, than the existence of the law which we condemn.'

But the consequences, which we have hitherto hinted at, of the separation, are not the worst; as certain as any of them, as certain as destiny, would be the recolonization of South Carolina by Great Britain. What ensures, as against the claims of Great Britain, the independence of South Carolina? The treaty of 1783 with the United States? From this union South Carolina retires. Does she carry with her the benefits of its treaties? Certainly not; and if she did, who is to protect her in the enjoyment of those benefits? Will Great Britain refrain from taking renewed possession of her ancient colony? Why should she? What shall prevent her?

Let those, then, who are for weighing the value of the Union, remember, that, in the destiny of nations, as written by the hand of Heaven itself, *Upharsin* stands next to *Tekel:* Tekel, *thou art weighed in the balances and found wanting;* Upharsin, *thy kingdom is divided and given to the Medes and Persians.* The day that takes South Carolina from the Union, gives her to the British crown. Whatever be the first act of the American Congress which she nullifies, the second, as far as she is concerned, will be the Declaration of Independence.

In closing this article, we rejoice to have it in our power to submit to our readers the following communication from the venerable individual, to whom, more than to any one living, the people of the United States are indebted for the Constitution. This individual was an active member of the Continental Congress; a leader in the Convention that framed the Federal Constitution; and the most influential of its supporters in the Virginia Convention which adopted it. He wrote the greatest part of the Federalist; was the author of the Virginia Resolutions of 1798, and the Virginia Report of 1799; and for sixteen years was charged with the administration of the Government, as the

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incumbent successively of the second and first offices in the Executive. The South Carolina doctrine reposes mainly on the alleged authority of the Virginia Resolutions; and it is therefore scarcely necessary to add, that there is no man, whose voice, on the point in controversy, is entitled to be heard with so much deference as that of their author. We doubt not it will be heard with respect by the people of the United States, and that its utterance, at this moment, will be felt as a new title to their gratitude.*

'Montpelier, August, 1830.

'Dear Sir,

I have duly received your letter, in which you refer to the "nullifying doctrine," advocated, as a constitutional right, by some of our distinguished fellow-citizens; and to the proceedings of the Virginia Legislature in '98 and '99, as appealed to in behalf of that doctrine; and you express a wish for my ideas on those subjects.

'I am aware of the delicacy of the task in some respects, and the difficulty in every respect, of doing full justice to it. But, having, in more than one instance, complied with a like request from other friendly quarters, I do not decline a sketch of the views which I have been led to take of the doctrine in question, as well as some others connected with them; and of the grounds from which it appears, that the proceedings of Virginia have been misconceived by those who have appealed to them. In order to understand the true character of the Constitution of the United States, the error, not uncommon, must be avoided, of viewing it through the medium, either of a consolidated Government, or of a confederated Government, whilst it is neither the one nor the other; but a mixture of both. And having, in no model, the similitudes and analogies applicable to other systems of Government, it must, more than any other, be its own interpreter according to its text and *the facts of the case.*

'From these it will be seen, that the characteristic peculiarities of the Constitution are, 1, the mode of its formation; 2, the division of the supreme powers of Government between the States in their united capacity, and the States in their individual capacities.

'1. It was formed, not by the Governments of the component States, as the Federal Government for which it was substituted was formed. Nor was it formed by a majority of the people of the

* It is perhaps superfluous to observe, that the venerable author of this letter is in no way responsible for any sentiment contained in our article, to which it is appended.

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United States, as a single community, in the manner of a consolidated Government.

'It was formed by the States, that is, by the people in each of the States, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State Constitutions.

'Being thus derived from the same source as the Constitutions of the States, it has, within each State, the same authority as the Constitution of the State; and is as much a Constitution, in the strict sense of the term, within its prescribed sphere, as the Constitutions of the States are, within their respective spheres: but with this obvious and essential difference, that being a compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the States individually, as the Constitution of a State may be at its individual will.

'2. And that it divides the supreme powers of Government, between the Government of the United States, and the Governments of the individual States, is stamped on the face of the instrument; the powers of war and of taxation, of commerce and of treaties, and other enumerated powers vested in the Government of the United States, being of as high and sovereign a character, as any of the powers reserved to the State Governments.

'Nor is the Government of the United States, created by the Constitution, less a Government in the strict sense of the term, within the sphere of its powers, than the Governments created by the Constitutions of the States are, within their several spheres. It is like them organized into Legislative, Executive, and Judiciary Departments. It operates, like them, directly on persons and things. And, like them, it has at command a physical force for executing the powers committed to it. The concurrent operation in certain cases, is one of the features marking the peculiarity of the system.

'Between these different Constitutional Governments, the one operating in all the States, the others operating separately in each, with the aggregate powers of Government divided between them, it could not escape attention, that controversies would arise concerning the boundaries of jurisdiction; and that some provision ought to be made for such occurrences. A political system that does not provide for a peaceable and authoritative termination of occurring controversies, would not be more than the shadow of a Government; the object and end of a real Government being, the substitution of law and order, for uncertainty, confusion, and violence.

'That to have left a final decision, in such cases, to each of the

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States, then thirteen, and already twenty-four, could not fail to make the Constitution and laws of the United States different in different States, was obvious; and not less obvious, that this diversity of independent decisions, must altogether distract the Government of the Union, and speedily put an end to the Union itself. A uniform authority of the laws, is in itself a vital principle. Some of the most important laws could not be partially executed. They must be executed in all the States, or they could be duly executed in none. An impost, or an excise, for example, if not in force in some States, would be defeated in others. It is well known that this was among the lessons of experience, which had a primary influence in bringing about the existing Constitution. A loss of its general authority would moreover revive the exasperating questions between the States holding ports for foreign commerce, and the adjoining States without them; to which are now added, all the inland States, necessarily carrying on their foreign commerce through other States.

'To have made the decisions under the authority of the individual States, co-ordinate, in all cases, with decisions under the authority of the United States, would unavoidably produce collisions incompatible with the peace of society, and with that regular and efficient administration, which is of the essence of free governments. Scenes could not be avoided, in which a ministerial officer of the United States, and the correspondent officer of an individual State, would have rencounters in executing conflicting decrees; the result of which would depend on the comparative force of the local posses attending them; and that, a casualty depending on the political opinions and party feelings in different States.

'To have referred every clashing decision, under the two authorities, for a final decision, to the States as parties to the Constitution, would be attended with delays, with inconveniences, and with expenses, amounting to a prohibition of the expedient; not to mention its tendency to impair the salutary veneration for a system requiring such frequent interpositions, nor the delicate questions which might present themselves as to the form of stating the appeal, and as to the quorum for deciding it.

'To have trusted to negotiation for adjusting disputes between the Government of the United States and the State Governments, as between independent and separate sovereignties, would have lost sight altogether of a Constitution and Government for the Union; and opened a direct road from a failure of that resort, to the *ultima ratio* between nations wholly independent of and alien to each other. If the idea had its origin in the process of adjustment, between separate branches of the same Government, the

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analogy entirely fails. In the case of disputes between independent parts of the same Government, neither part being able to consummate its will, nor the Government to proceed without a concurrence of the parts, necessity brings about an accommodation. In disputes between a State Government, and the Government of the United States, the case is practically as well as theoretically different; each party possessing all the departments of an organized Government, Legislative, Executive, and Judiciary; and having each a physical force to support its pretensions. Although the issue of negotiation might sometimes avoid this extremity, how often would it happen among so many States, that an unaccommodating spirit in some would render that resource unavailing? A contrary supposition would not accord with a knowledge of human nature, or the evidence of our own political history.

'The Constitution, not relying on any of the preceding modifications, for its safe and successful operation, has expressly declared, on the one hand, 1, "that the Constitution, and the laws made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the land; 2, that the Judges of every State shall be bound thereby, any thing in the Constitution and laws of any State, to the contrary notwithstanding; 3, that the judicial power of the United States shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made under their authority, &c."

'On the other hand, as a security of the rights and powers of the States, in their individual capacities, against an undue preponderance of the powers granted to the Government over them in their united capacity, the Constitution has relied on, 1, the responsibility of the Senators and Representatives in the Legislature of the United States to the Legislatures and people of the States; 2, the responsibility of the President to the people of the United States; and 3, the liability of the Executive and Judicial functionaries of the United States to impeachment by the Representatives of the people of the States, in one branch of the Legislature of the United States, and trial by the Representatives of the States, in the other branch: the State functionaries, Legislative, Executive, and Judicial, being, at the same time, in their appointment and responsibility, altogether independent of the agency or authority of the United States.

'How far this structure of the Government of the United States is adequate and safe for its objects, time alone can absolutely determine. Experience seems to have shewn, that whatever may grow out of future stages of our national career, there is, as yet, a sufficient control, in the popular will, over the Executive and Le-

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gislative Departments of the Government. When the Alien and Sedition Laws were passed in contravention to the opinions and feelings of the community, the first elections that ensued put an end to them. And whatever may have been the character of other acts, in the judgment of many of us, it is but true, that they have generally accorded with the views of a majority of the States and of the people. At the present day it seems well understood, that the laws which have created most dissatisfaction, have had a like sanction without doors; and that, whether continued, varied, or repealed, a like proof will be given of the sympathy and responsibility of the Representative body, to the constituent body. Indeed, the great complaint now is, against the results of this sympathy and responsibility in the Legislative policy of the nation.

With respect to the judicial power of the United States, and the authority of the Supreme Court in relation to the boundary of jurisdiction between the Federal and the State Governments, I may be permitted to refer to the thirty-ninth number of the "Federalist,"* for the light in which the subject was regarded by its writer, at the period when the Constitution was depending; and it is believed, that the same was the prevailing view then taken of it, that the same view has continued to prevail, and that it does so at this time, notwithstanding the eminent exceptions to it.

'But it is perfectly consistent with the concession of this power to the Supreme Court, in cases falling within the course of its functions, to maintain that the power has not always been rightly exercised. To say nothing of the period, happily a short one, when Judges in their seats did not abstain from intemperate and party harangues, equally at variance with their duty and their dignity; there have been occasional decisions from the bench, which have incurred serious and extensive disapprobation. Still it would seem, that, with but few exceptions, the course of the Judiciary has been hitherto sustained by the predominant sense of the nation.

'Those who have denied or doubted the supremacy of the judi-

* No. 39. 'It is true, that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword, and a dissolution of the compact; and that it ought to be established under the General, rather than under the local Governments; or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.'

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cial power of the United States, and denounce at the same time a nullifying power in a State, seem not to have sufficiently adverted to the utter inefficiency of a supremacy in a law of the land, without a supremacy in the exposition and execution of the law; nor to the destruction of all equipoise between the Federal Government and the State Governments, if, whilst the functionaries of the Federal Government are directly or indirectly elected by and responsible to the States, and the functionaries of the States are in their appointment and responsibility wholly independent of the United States, no constitutional control of any sort belonged to the United States over the States. Under such an organization, it is evident that it would be in the power of the States, individually, to pass unauthorized laws, and to carry them into complete effect, any thing in the Constitution and laws of the United States to the contrary notwithstanding. This would be a nullifying power in its plenary character; and whether it had its final effect, through the Legislative, Executive, or Judiciary organ of the State, would be equally fatal to the constituted relation between the two Governments.

'Should the provisions of the Constitution as here reviewed, be found not to secure the Government and rights of the States, against usurpations and abuses on the part of the United States, the final resort within the purview of the Constitution, lies in an amendment of the Constitution, according to a process applicable by the States.

'And in the event of a failure of every constitutional resort, and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil, than resistance and revolution, there can remain but one resort, the last of all; an appeal from the cancelled obligations of the constitutional compact, to original rights and the law of self-preservation. This is the *ultima ratio* under all Governments, whether consolidated, confederated, or a compound of both; and it cannot be doubted, that a single member of the Union, in the extremity supposed, but in that only, would have a right, as an extra and ultra-constitutional right, to make the appeal.

This brings us to the expedient lately advanced, which claims for a single State a right to appeal against an exercise of power by the Government of the United States decided by the State to be unconstitutional, to the parties to the constitutional compact; the decision of the State to have the effect of nullifying the act of the Government of the United States, unless the decision of the State be reversed by three fourths of the parties.

The distinguished names and high authorities which appear to have asserted and given a practical scope to this doctrine, entitle it to a respect which it might be difficult otherwise to feel for it.

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'If the doctrine were to be understood as requiring the three fourths of the States to sustain, instead of that proportion to reverse the decision of the appealing State, the decision to be without effect during the appeal, it would be sufficient to remark, that this extra-constitutional course might well give way to that marked out by the Constitution, which authorizes two thirds of the States to institute and three fourths to effectuate an amendment of the Constitution, establishing a permanent rule of the highest authority, in place of an irregular precedent of construction only.

'But it is understood that the nullifying doctrine imports that the decision of the State is to be presumed valid, and that it overrules the law of the United States, unless overruled by three fourths of the States.

'Can more be necessary to demonstrate the inadmissibility of such a doctrine, than that it puts it in the power of the smallest fraction over one fourth of the United States, that is, of seven States out of twenty four, to give the law and even the Constitution to seventeen States, each of the seventeen having as parties to the Constitution, an equal right with each of the seven, to expound it, and to insist on the exposition? That the seven might, in particular instances be right, and the seventeen wrong, is more than possible. But to establish a positive and permanent rule giving such a power, to such a minority, over such a majority, would overturn the first principle of free government, and in practice necessarily overturn the Government itself.

'It is to be recollected that the Constitution was proposed to the people of the States as *a whole*, and unanimously adopted by the States as *a whole*, it being a part of the Constitution that not less than three fourths of the States should be competent to make any alteration in what had been unanimously agreed to. So great is the caution on this point, that in two cases where peculiar interests were at stake, a proportion even of three fourths is distrusted, and unanimity required to make an alteration.

When the Constitution was adopted as a whole, it is certain that there were many parts, which, if separately proposed, would have been promptly rejected. It is far from impossible, that every part of a Constitution might be rejected by a majority, and yet taken together as a whole be unanimously accepted. Free Constitutions will rarely if ever be formed, without reciprocal concessions; without articles conditioned on and balancing each other. Is there a Constitution of a single State out of the twenty-four that would bear the experiment of having its component parts submitted to the people and separately decided on?

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'What the fate of the Constitution of the United States would be if a small proportion of the States could expunge parts of it particularly valued by a large majority, can have but one answer.

'The difficulty is not removed by limiting the doctrine to cases of construction. How many cases of that sort, involving cardinal provisions of the Constitution, have occurred? How many now exist? How many may hereafter spring up? How many might be ingeniously created, if entitled to the privilege of a decision in the mode proposed?

'Is it certain that the principle of that mode would not reach further than is contemplated. If a single State can of right require three fourths of its co-States to overrule its exposition of the Constitution, because that proportion is authorized to amend it, would the plea be less plausible that, as the Constitution was unanimously established, it ought to be unanimously expounded?

'The reply to all such suggestions seems to be unavoidable and irresistible; that the Constitution is a compact, that its text is to be expounded according to the provisions for expounding it—making a part of the compact; and that none of the parties can rightfully renounce the expounding provision more than any other part. When such a right accrues, as may accrue, it must grow out of abuses of the compact releasing the sufferers from their fealty to it.

'In favor of the nullifying claim for the States, individually, it appears, as you observe, that the proceedings of the Legislature of Virginia, in '98 and '99, against the Alien and Sedition Acts, are much dwelt upon.

'It may often happen, as experience proves, that erroneous constructions not anticipated, may not be sufficiently guarded against, in the language used; and it is due to the distinguished individuals, who have misconceived the intention of those proceedings, to suppose that the meaning of the Legislature, though well comprehended at the time, may not now be obvious to those unacquainted with the contemporary indications and impressions.

'But it is believed that by keeping in view the distinction between the Governments of the States, and the States in the sense in which they were parties to the Constitution; between the rights of the parties, in their concurrent and in their individual capacities; between the several modes and objects of interposition against the abuses of power, and especially between interpositions within the purview of the Constitution, and interpositions appealing from the Constitution to the rights of nature paramount to all Constitutions; with an attention, always of explanatory use, to the views and arguments which were combated, the Resolutions of Virginia, as vindicated in the Report on

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them, will be found entitled to an exposition, showing a consistency in their parts, and an inconsistency of the whole with the doctrine under consideration.

'That the Legislature could not have intended to sanction such a doctrine, is to be inferred from the debates in the House of Delegates, and from the address of the two Houses to their constituents, on the subject of the Resolutions. The tenor of the debates, which were ably conducted and are understood to have been revised for the press by most, if not all, of the speakers, discloses no reference whatever to a constitutional right in an individual State, to arrest by force the operation of a law of the United States. Concert among the States for redress against the Alien and Sedition Laws, as acts of usurped power, was a leading sentiment; and the attainment of a concert, the immediate object of the course adopted by the Legislature, which was that of inviting the other States "to *concur*, in declaring the acts to be unconstitutional, and to *co-operate* by the necessary and proper measures in maintaining unimpaired the authorities, rights and liberties reserved to the States respectively and to the people."* That by the necessary and proper measures to be *concurrently* and *co-operatively* taken, were meant measures known to the Constitution, particularly the ordinary control of the people and Legislatures of the States, over the Government of the United States, cannot be doubted; and the interposition of this control, as the event showed, was equal to the occasion.

'It is worthy of remark, and explanatory of the intentions of the Legislature, that the words "not law, but utterly null, void and of no force or effect," which had followed, in one of the Resolutions, the word "unconstitutional," were struck out by common consent. Though the words were in fact but synonymous with "unconstitutional;" yet to guard against a misunderstanding of this phrase as more than declaratory of opinion, the word "unconstitutional" alone was retained, as not liable to that danger.

'The published Address of the Legislature to the people, their constituents, affords another conclusive evidence of its views. The Address warns them against the encroaching spirit of the General Government, argues the unconstitutionality of the Alien and Sedition Acts, points to other instances in which the constitutional limits had been overleaped; dwells upon the dangerous mode of deriving power by implication; and in general presses the necessity of watching over the consolidating tendency of the Federal policy. But nothing is said that can be

* See the concluding resolution of 1798.

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understood to look to means of maintaining the rights of the States, beyond the regular ones, within the forms of the Constitution.

'If any further lights on the subject could be needed, a very strong one is reflected in the answers to the Resolutions, by the States which protested against them. The main objection of these, beyond a few general complaints of the inflammatory tendency of the Resolutions, was directed against the assumed authority of a State Legislature to declare a law of the United States unconstitutional, which they pronounced an unwarrantable interference with the exclusive jurisdiction of the Supreme Court of the United States. Had the Resolutions been regarded as avowing and maintaining a right, in an individual State, to arrest, by force, the execution of a law of the United States, it must be presumed that it would have been a conspicuous object of their denunciation.

'With cordial salutations,

JAMES MADISON.'

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